

THE

1505/116

PROCEEDINGS

OF A

GENERAL COURT MARTIAL,

Held at WARLEY CAMP, the 18th Day of JULY, 1781,

UPON

Captain THOMAS BRIDGE LITTELL,

AND

Captain THOMAS BAXTER AVELING,

OF THE

CAMBRIDGESHIRE REGIMENT OF MILITIA.

(Published from an attested Copy from the JUDGE ADVOCATE GENERAL'S OFFICE)

With REMARKS, and a PETITION to his MAJESTY on their Case;

Also his MAJESTY's Answer thereto;

And a Correspondence (contained in several Letters) that has passed between the Judge Advocate General, Mr. LITTELL, and Mr. AVELING, upon the Subject.

L O N D O N:

PRINTED FOR J. MILLAN, CHARING-CROSS; J. F. AND C. RIVINGTON, ST. PAUL'S
CHURCH-YARD; J. AND J. MERILL AND J. DEIGHTON, CAMBRIDGE; W. NICHOL-
SON, WISBICH; J. JACOB, PETERBOROUGH; AND HARROD, ELV.

MDCCLXXXII.

THE following Proceedings of a General Court Martial, are submitted to the Publick, by Mr. Littell and Mr. Aveling, at the earnest Request of their Friends; and although it cannot be supposed that they could wish again to serve in a Corps, with such Characters as are described in the Evidence, contained in the following Sheets, yet they thought it necessary (for the Reasons therein mentioned) to present a Petition to the King, praying for an Opportunity to exculpate themselves from the Odium, which the Sentence of such Court Martial may be supposed to have brought upon them.

The Petition is therefore likewise submitted to the public Inspection, and as the Printer received particular Directions, not to deviate in any Instance from the authenticated Copy of the Trial received from the Judge Advocate General's Office, besides the Omissions alluded to in the Petition, there will be found on the Perusal, several Inaccuracies, which the Publishers did not think proper to rectify in the Body of the Proceedings.

As it must seem extraordinary these Proceedings did not appear much sooner, the Publishers think it incumbent on them to declare, the Reasons are, the Time that was taken up in the necessary Enquiries they made after the Mode they were to pursue for Redress, the unavoidable Delays they met with at the various Offices they applied to, through which they supposed the Petition ought to be presented to the King, and since it has been presented to his Majesty, by the necessary Correspondence contained in the subjoined Letters.



E R R A T A.

Page 63, line 6, *for* have in this done, *read* have in this *instance* done.

P. 64, l. 25, *for* pleased to confirm, *read* pleased *not* to confirm.

P. 66, l. 15, *for* appeared as against us, *read* appeared as *evidence* against us.

P R O C E E D I N G S

O F A

GENERAL COURT MARTIAL,

Held at *Warley Camp*, this 18th Day of July, 1781, by
Virtue of a Warrant from His Majesty to the Ho-
nourable Lieutenant General GEORGE LANE
PARKER.

EARL of EUSTON, President.

Lieutenant-Colonel PHILIP BACON, Suffolk Militia.

Lieutenant-Colonel JOHN MYDLETON, Denbighshire Militia.

Captain JOHN INGRAM, Warwickshire Militia.

Captain CHARLES PORTER PACKWOOD, Warwickshire Militia.

Captain CHARLES GARTSIDE, Denbighshire Militia.

Captain CHARLES STISTED, Suffolk Militia.

Captain PHILIP YORKE, Denbighshire Militia.

Captain CHRISTOPHER WREN, Warwickshire Militia.

Captain JOHN VENNER, Kent Militia.

Captain THOMAS PAPILLON, Kent Militia.

Captain JOHN HOWKINS, Warwickshire Militia.

Captain JOSHUA GRIGBY, Suffolk Militia.

JOHN HUNT, Deputy Judge Advocate.

THE King's Warrant to Lieutenant-General Parker, and the Judge Advocate
General's Commission for Deputy Judge Advocate, were read.
The President, Court, and Deputy Judge Advocate being duly sworn,
Captain THOMAS BRIDGE LITTELL, and Captain THOMAS BAXTER AVELING
of the Cambridgeshire Militia, came Prisoners before the Court, and the following
Charge was exhibited against them from Lieutenant Colonel Thomas Watson
Ward of the same Regiment.

N. B. The President and Deputy Judge Advocate, were both of the Suffolk Militia.

B

CHARGE.

C H A R G E.

For behaving unbecoming the Character of Officers and Gentlemen—and contrary to good Order and military Discipline—by aspersing the Characters of Lieutenant-Colonel Thomas Watson Ward and Major William Stevenson, their superior Officers, by declaring before Mr. George Aust, Agent to the Cambridgeshire Militia, on the 15th of May 1781 that they intended to avow the Charges of an anonymous Letter, sent to Lord Hardwicke, Lord-Lieutenant of the County of Cambridge, received by his Lordship the 25th of April 1781 by the Penny-post, aspersing the Characters of the said Lieutenant-Colonel Ward and Major Stevenson, and afterwards, on the 2d day of June 1781 at Hockerill, declaring before several of the Officers of the Corps, that they believed the Contents of the said anonymous Letter to be true*.

LIEUTENANT-COLONEL WARD † being duly Sworn produced Lord Hardwicke's Note to him and Major Stevenson, sent with the Copy of the anonymous Letter.

St. James's-square, 18th May, 1781.

Lord Hardwicke's Compliments to Lieutenant-Colonel Ward and Major Stevenson, and is concerned that his duty obliges him to transmit the inclosed Memorial, which came to his Hands a few Days ago, by the Penny-post, particularly as he understands it will be avowed by some of the Officers of the Regiment, the continuance of the differences in the Corps is of the greatest prejudice to the Credit of the County, as well as to the Public Service.

ANONYMOUS LETTER.

My Lord,

ANONYMOUS Letters are of two kinds, malignant and benign, according to the Motives that induce them: to attack the Peace, Merit, or Reputation of another, in this dark Mode is the Process of the Coward, and the Assassin. We abhor the Idea! to represent Vice, Oppression, Folly, and the unfitness of Things, thro' a Channel we cannot openly pass may surely be allowed. And this only we profess—it would be impertinent to elaborate an Examination of the War, and constitutional Efforts against so many Enemies as now threaten our unfortunate Country; to you that have better means of Information, it is sufficient that the Sword is put into the Hands of so many of it's Citizens—its Peasantry and Artizans in Arms—and the exorbitant Expences attending to make it of the most serious Consideration and Importance to every one. At this Instant we discern no Difference between the Regular and Militia Corps, but in their home and foreign Stations. In all other respects our Expectations from them are alike. Government does not seem to have made any other distinction than by leaving the Appointment of Officers to the Lords Lieutenants, as adequate Judges of the Persons employed: your Lordship therefore cannot be supposed indifferent to the State of the County Regiment—and the defects still remaining in that Body, must be imputed to your want of information alone. Hence we present such Facts to your Attention as might have waited a slower progress, had not your Lordship's desire of knowledge from one that, at best, can only see the actual Grievances without their Causes, and liable to form a wrong Judgment might mislead your belief. We do not mean to analyze the component Parts of as wretched a Machine as ever hung together—it will be enough to in-

* As the Prisoners considered this to be the proper Time for them to be called upon to plead to the Charge, they begged to state Reasons in Objection to the Legality of it, but were refused to be heard by the Court.

† Notwithstanding an Objection was made by the Prisoners as to the Informality, if not the Illegality of the Lieutenant Colonel's being admitted an Evidence as Prosecutor in the Cause, and an Instance brought, where, in a similar Case, it had not been admitted; yet this Court would not allow the Objection, but desired him to proceed.

vestigate



vestigate the principal Springs, to shew why the Movements have been hitherto irregular, and may soon cease to act. But before we proceed further, permit an observation, that without any view of ever meeting the Enemy, it is the indispensable Duty of Officers commanding Militia Corps, to pay as much Attention to the Morals and good Order of the Men, as to their Discipline; since it is easy to imagine the greatest and worst Change of Manners, perhaps, will affect this Nation upon a Dissolution of these Regiments. Men from obscure Hamlets yet undebauched, by incorporating with those from large Towns, abandoned and profligate, will readily imbibe the licentious Vices of their Comrades, if unchecked and without good Example, Men uneducated and illiterate, cannot associate in Idleness, without a Participation of their worst Qualities, and the false vulgar Opinion also of the Military Character, will ferment this Disposition, and every Village will receive, with the Return of the Labourer, the Seeds of a speedy Corruption; and who is there my Lord, at the Head of your Regiment to have an Eye to this Tendency; who is there to conduct five hundred Men, to hold them in order, and to converge as it were to a point, the diversity of Tempers that have been flying off from Obedience and Subordination, to the Disgrace of themselves and the County that produced them? Surely it is not a Man as ignorant as vicious, a Character so commonly known, as to need no description to any other than yourself; and it is wished your Lordship could conceive and spare a colouring that would contaminate the Pencil. Believe, my Lord, the discords past would never have happened—the Turbulence complained of could never have arisen to any height, under the Controul of the least judicious, or one sensible of Dignity and willing to act; but weak and irresolute; with only pecuniary Advantages before him, he abandoned every Thing to the next in Office, and left to impatience and vanity, the risk of confusion: with insensibility and shameful indifference, he suffered the rising Reputation of the Regiment to be blasted, without hopes or desire of its recovery, through the means of those capable to effect it. On the late Vacancy your Lordship was applied to by the Corps, to appoint a Successor; and the eldest Captain having repeatedly declared, he would not fill it for the Universe, it was ardently expected to devolve in order; but the Disappointment has been already most sensibly felt, and if not timely remedied may prove fatal, as your Lordship may judge from the following. In May 1762, the present Major obtained a Cornet's Commission in the Royal Forresters, and after six Months Dissipation in Quarters at Manchester, was reduced with the Regiment in the Peace of 1763. In the year 1766 he became Chicisbee to, and a Captain under the command of Lord M—— and since the Militia has been embodied, has a thousand times wished to resign the latter, for the former alone. And this conscious Inability always did him honor with his Friends, but by what Infatuation a Man so totally incapable, could become all at once insensible and forgetful of feelings, that have frequently betrayed him into Pity of the Officers, and Contempt of the Men—by what Power this poor Man has exposed himself to, we know not—what Event is hard to conjecture. We know that Age, and the Reputation of having once been in the Regulars have passed him upon your Lordship for a Veteran; and 'tis believed, the Vanity of some of his Friends, with the Intrigues of a Man that would not have an Opposer to his mean Avarice, a penetrating Eye to his Conduct—or Sense and Spirit to contend with—these we think have laboured to persuade him to take an active Post, though never yet able to move in Battalion, command a Division, or to march off a Guard; in a Word, he has but once seen a Soldier in Arms (7th of April) or been on a Parade since the Date of his Commission.—He goes to Quarters only to sign the periodical Returns, and then prudently perhaps, leaves again what he does not understand. In fine my Lord this Man of Honour has been grossly abused (at St. Alban's) collared and knocked down by an Ensign in the Regiment, before his Brother Officers, and without Resentment. Humanity and to avoid the Appearance of Scandal, would here draw a Veil, as it did then in Compassion to his Circumstances, and not having any Command; but it must not surprise, if those under him susceptible of Honour, should now take the first Occasion of objecting to his Direction, and we sincerely wish it may not happen when the Service may most require Unanimity and implicit Obedience. From such a Fountain what Streams can flow? All are

are contaminated and running fast into Anarchy, every Officer copies his Superior, turns his Back upon his Quarters, and some few excepted, expect all the Benefits of a Sinecure—from their Commissions, even the slightest Indisposition has been a Plea for more than twelve Months absence—To what Particulars we could descend and shew your Lordship the Relaxation, the Timidity, the Inability, the Discredit of the Regiment, our Observation and our Information sufficiently enable us to do it; but we would rather point to the Channel that will amply furnish Incidents of every kind, than be Compilers of as disgraceful Anecdotes as ever tarnished the military Character, or the Gentleman's. To this end, please my Lord to take the route through those Towns the Regiment has already rested in, some of which are near you; and for the Camps, let the late Captain Lieutenant or any of the Captains that were there inform you, and we will stake our Credit upon the Issue—and that your Lordship will be anxious also to redress the Error in a late Appointment, and to see the Regiment, as it then certainly would, take a better form. Once more, my Lord, believe, that no Malevolence, no private or personal Dislike, guides this Pen—real Sympathy with the worthy Part of the Corps, actual Concern for the Honour of the County, pure Apprehension for the Interest of the Service, and Astonishment to see by what Means the best Intentions are sometimes perverted, and the most obvious Remedies overlooked and neglected: These, my Lord, and these only, have agitated our Minds, in hopes to put your's in vibration; and, unconscious of any other Motive, we are as ready, if necessary, to avow the Writing, as we are most truly,

Your Lordship's devoted,
and most obedient servants.

The following is a Letter from Mr. Aust, Agent, to Lieutenant and Adjutant Tolver, being a Copy of Lord Hardwicke's Letter to him.

S I R,

St. James's, April 27, 1781.

MY Lord Hardwicke received, by the Penny-post on Wednesday last, an anonymous Memorial, relative to the State of the Regiment, particularly with regard to the two Field Officers. The Complaints are strong, and his Lordship is willing to hear and to redress, as far as lies in his Power. If any such Memorial is avowed by any Officers of the Corps, they have only to make a Remonstrance, signed by themselves, but will consider that the Parties charged must be heard in their Defence before an Award can be passed. His Lordship would rather chuse to be the Instrument of Peace and Harmony than Disunion and Discord, which have too much prevailed. My Lord thinks if the Complaints are persisted in, that he must communicate the Memorial to the Lieut. Colonel and the Major. You know too well the Rules of Service not to be sensible, that Officers are not in general removed, without specific Charges, and a legal Trial. My Lord exactly followed what was recommended to him by the Corps, not to dispose of the Majority out of it; and he never heard the least Complaint of Mr. Stevenson's Conduct while he was Captain.

Lord Hardwicke desires you will be pleased to acquaint the Officers with the Contents of this Letter, in such a Manner as you think proper.

Signed,

G. AUST.

These Letters were authenticated by Lord Hardwicke.

Lieut. Colonel Ward acquainted the Court, that Major Stevenson sent that Copy of an anonymous Letter with the Note from Lord Hardwicke to him at Wilbraham, with a Letter desiring his Attendance at Head-Quarters; the Adjutant was sent for by Lieut. Colonel Ward, in order to put Capt. Littell and Capt. Aveling under Arrest, if he should think proper; but Major Stevenson's Information being from Lord Hardwicke, who had it from the Agent, he looked upon it as second hand Evidence, and therefore did not put them under Arrest; Major Stevenson went to London a second Time and saw the Agent, who informed him that Capt. Littell had avowed the Contents. Upon the Major's Return to Head-Quarters, he sent a Letter to Lieut. Col.

Col. Ward, requesting his Attendance at Head-Quarters, and asked a Meeting of all the Officers. At that Meeting, Lieut. Col. Ward read Lord Hardwicke's Note, and the Copy of the anonymous Letter; after having read the same, asked who would avow it? Nobody spoke; asked a second time, nobody spoke; asked a third time, and then Captain Littell said, I believe the Contents are true, as far as come under my Knowledge. Lieut. Col. Ward asked Captain Aveling what he thought? Who replied, you know my Opinion, there are we three. Lieut. Colonel Ward then ordered them under Arrest, and reported them to the Commander in Chief.

Prisoners to Lieut. Col. Ward. Q. Did not you immediately after the Letter being read, inform the Officers that we had avowed the Letter, before we had made any Answer?—A. To the best of my Knowledge, not. *

Q. Was the Letter or the Contents avowed by us?

A. I can give no other Answer than as before.

Q. Did you say at the second Meeting, we had avowed it to Mr. Aust?

A. I really do not know, it is possible I might.

Q. What Motives had you for calling only us to [†] that Meeting?

A. You were not called by me, but by Major Stevenson.

Q. Had you any Knowledge of our being called to the first Meeting?

A. Major Stevenson informed me he had sent for you.

Q. At the second Meeting why did you not ask all the Officers the same Question?

A. Because I had no Proof of the avowal of the Contents of the Copy of the anonymous Letter to be true, but of yourselves.

Q. At the first Meeting was not you desired by us to call together all the Officers?

A. I was.

Q. Did you in compliance with our Request call together all the Officers?

A. I did order the Adjutant to do so but countermanded the Order.

Q. Did either of us deny having avowed the Contents of the anonymous Letter?

A. To the best of my knowledge no.

E A R L of H A R D W I C K E was duly sworn.

Lieut. Col. Ward. Q. Why did your Lordship keep the Letter from the 25th of April to the 18th of May?

A. Because I was loth to disturb the Harmony of the Regiment, till there should be Appearances that the Facts would be avowed, and when informed by the Agent that two Gentlemen of the Regiment would avow the Truth of the Facts, though not the Writing of the Letter, I then thought it my Duty to send it to the Lieutenant-Colonel and Major, to lay before the Officers, and should have suppressed it unless the Facts had been avowed.

Q. Has not your Lordship received other anonymous Letters?

A. I have, and burnt them.

Q. Why did your Lordship distinguish this more than others?

A. Because it seemed to contain more weighty Accusations.

Q. Did your Lordship ever hear any thing to the Prejudice of Major Stevenson while Captain?—A. I never did.

Court to Lieut. Col. W. Q. Who was the next Captain in Rank, had Captain Stevenson not been appointed Major?—A. Captain Littell.

Court to Lord Hard. Q. Did your Lordship receive a Petition that the Majority might go in the Regiment, and that the eldest Captain might be appointed to the Majority?—A. I received a Petition that it might go in the Regiment.

Court to Lord H. Q. Did your Lordship understand by that Petition that the Promotion was desired to go in succession?

* It is observable, that during the whole of the Examination of the Prosecutor and his Witnesses, that not one of them gave a direct Answer to any one Question of Consequence that was asked them by the Prisoners.

† For that read the first.

A. I understood it was desired to go in the Regiment, and, if no Objection, to the senior Captain*.

Prisoner, Capt. A. to Lord H. Q. Did your Lordship ever hear either of us say we avowed, or intended to avow, the Contents of the anonymous Letter?

A. I myself never did.

Prisoner, Capt. L. to Lord Hard. Q. Did your Lordship ever hear either of us say, we would avow, or intended to avow, the Contents of the anonymous Letter?

A. I myself never did.

Q. Had there not been a Report, my Lord, that a Gentleman of the County, and not of the Corps, was intended for the Majority?

A. There has been such a Report, but he has been in the Service.

Q. Did I express to your Lordship, at Richmond, my readiness to serve under Major Stevenson, if appointed Major?

A. I do not immediately recollect what passed as to your readiness to serve under Major Stevenson, but I understood in general, that you thought Captain Stevenson would refuse the Majority if offered.

Q. Did I ever apply to your Lordship for the Majority in preference to Captain Stevenson?—A. Never.

Q. Have I not always, when I have had the Honour of waiting upon your Lordship, expressed in general, disinterested Intentions in the Regiment?

A. In general you have.

Mr. GEORGE AUST being duly sworn.

Lieut. Col. W. Q. What passed in conversation between you, Captain Littell, and Captain Aveling, on the Subject of the anonymous Letter on the 15th of May, 1781.

A. Captain Aveling called upon me, and the Conversation turned on the Subject of the anonymous Letter. I said, I had a Copy of the anonymous Letter, which I shewed Captain Aveling. I took no Minutes of what Captain Aveling said on that Occasion, being frequently interrupted by Business, while he was perusing it. At my Return into the Room, Captain Aveling gave me the Paper, and said, to this Effect, "I see nothing in it but what I look upon to be true." Whether this Declaration was in the Presence of Captain Littell I cannot tell, but Captain Littell called in during the Conversation; Captain Littell perused also the Copy of the anonymous Letter, he spoke but little on the Subject, but expressed similar Sentiments to what Captain Aveling had declared, upon that Part, relative to the Major's having been knocked down by an Ensign in the Regiment; Captain Aveling said, that Mr. Tuting was there meant, and that the Fact was notorious in the Regiment; to that Fact Captain Littell seemed to be no Stranger. The next Circumstance that came into Conversation, was Major Stevenson's not having exercised the Battalion, in the Manner stated in the Paper, when Captain Aveling, turning to Captain Littell, said, to this Effect, "I believe there can be no doubt of this neither," to which Captain Littell assented. I was then requested by one of them, to send a Copy of the Paper to the Adjutant, which I declined doing without Lord Hardwicke's Directions, upon which, they both joined in requesting me to ask Lord Hardwicke to send a Copy of the anonymous Letter to the Adjutant, to be communicated to the Officers in general, for the Purpose, as I understood, of avowing the principal Charges contained in it, or of framing some Accusation, or Representation upon them.

* At this Stage of the Business, it was asked the Prisoners, by the Court, whether the Questions asked by one of them, and the Answers thereto, should be taken down as meant jointly? to which they replied, by requesting they might be taken down separately, but that as there would be many Questions, the answers to which would equally affect both of them; that such Questions, with their Answers, must be received in that light by the Court, or they should be under the Necessity of having them taken down twice, and giving the Court double trouble. This was consented to by the Court, and so it was supposed to be conducted throughout the Business.

Lieut. Colonel Ward. Q. Had Captain Aveling any other Business with you, that 15th of May, than on the Subject of the anonymous Letter?

A. I do not recollect he had.

Q. Did you understand by their Conversation, that they intended avowing the Contents?—A. That was what I understood.

Prisoner, Captain A. Q. Have I not often called upon you without Business, in the way of a friendly Visit?—A. Frequently.

Q. After Captain Littell and I had read the Letter, did not you ask us what we thought of it, before we gave our Opinions?

A. I do not recollect I did, but it is not improbable but I might.

Q. Did either of us say, we would avow, or intended to avow the anonymous Contents?—A. I understood you so. *

Prisoner, Capt. L. Q. What was the Difference of the Time, between Captain Aveling's calling upon you, and mine?—A. Above half an Hour.

Q. Was I shewn into a separate Room?—A. Certainly.

Q. Did I call upon Business?—A. Yes, to receive Money.

Q. Is it usual for me to call upon you for Money?—A. Yes.

Q. Did you inform me, Captain Aveling was in another Room?—A. I did.

Q. Did I make any Enquiries after Captain Aveling.

A. No, nor did Captain Aveling enquire after you.

Q. Did I open the Business of the anonymous Letter to you, or you to me?

A. I opened it to you, by informing you, as well as I can recollect, that Captain Aveling was then perusing a Copy of it†.

Court. Q. Did Captain Aveling, or Captain Littell, express any dislike to the Mode of anonymous Accusations?

A. I cannot say positively they did; it is a Point I can have no recollection about.

Prisoner, Capt. L. Q. Did what I said about the anonymous Paper, appear to be a Matter of Opinion?

A. The Paper, as must appear to the Court, is of a very complex Nature; some Passages, I presume, can only be looked upon as Matter of Opinion; but from what you said, it appeared to me, that you had a Knowledge of the principal Facts contained in it.

Court. Q. What were those Facts.

A. Two Facts I recollect concerning the Major, of which Captain Littell, appeared to have a Knowledge, were, his being collared and knocked down by Ensign Tuting, and the Neglect of Duty ascribed to him in not taking out the Battalion, as in the Paper anonymous stated. †

Q. In speaking of the anonymous Paper, did I make use of the Words, as far as my Knowledge of the Circumstances went?

A. It is probable there might be Words to that effect, but I do not recollect them.

Q. Did you inform me and Captain Aveling, that another Captain had been with you shortly before, and expressed the same Sentiments, in regard to the Major, as we had done?—A. No.

Here ends Mr. Aust's Evidence, and the Court stands adjourned 'till To-morrow Morning, ten o'clock.

* This is, in fact, an Answer to two Questions, notwithstanding the very material Difference there is between them.

† Although the several Answers above prove that neither of the Prisoners expected to meet the other at the Agent's, or hear any thing of the Letter there, yet as they neglected asking this Evidence, when on his Examination, whether they knew of the anonymous Letter, or a Copy of it, being in his Possession when they called upon him, they put that Question singly to him, by Letter, the Day after, and received for Answer, that he had no Reason whatever to believe that they knew any thing of it.

The Agent's Letter was delivered into Court, was received as Evidence by it, and yet that Court did not suffer it to be entered upon the Minutes of it, although the Prisoners requested it might.

† The two foregoing pointed Questions, which were both put by Captain Littell, although taken down in the Name of the Court, at last brought out, that excepting in two Instances, what the Prisoners had said, was Matter of Opinion, but of those two Facts they appeared to have a Knowledge.

THURSDAY, JULY 19.

The COURT met pursuant to Adjournment.

Major STEVENSON being duly sworn.

LIEUT. Colonel Ward. Q. Was you at Hockerill at the time Lord Hardwicke's Note, with the anonymous Letter, was sent down there?—A. Yes.

Q. Did you receive it?—A. I did.

Q. Will you give an account of that Business?

A. I sent it immediately to you at Wilbraham, and by Return of the Post, I acknowledged the Receipt of it to Lord Hardwicke: I met you next Day at Cambridge; and I went immediately to Lord Hardwicke's, at Richmond, who told me, he should not have sent the anonymous Letter to the Regiment, had it not been avowed by Captain Littell and Captain Aveling. Lord Hardwicke said, the avowal was not to himself but the Agent, Lord Hardwicke looking upon that as an Avowal, at their Request, sent the Letter to the Regiment. Upon my Return to Quarters, I desired Captain Littell and Captain Aveling to come to Quarters, and Lieut. Col. Ward being present, I related what passed between Lord Hardwicke and myself; not satisfied with this Meeting, I thought it necessary to go to the Agent myself, who informed me, that Captain Aveling called upon him upon no other Business but that of the anonymous Letter; that Captain Littell came in soon after the Letter was read, they said they knew the Contents to be true, and desired it to be sent to the Regiment. After I returned from Mr. Aust, the Officers of the Regiment were called together, and it was thought necessary to put those Officers in Arrest, for the avowal of the anonymous Letter.

Lieut. Col. W. Q. After reading the anonymous Letter to the Officers, what said Captain Aveling and Captain Littell, upon being asked the third Time, who would avow it, or at any Time after that?

A. To the best of my recollection, Captain Littell said, he believed the Contents were true, and Captain Aveling said, if it was stuck up in every Market-Town in the Kingdom, he could sign it*.

Court. Q. Whether that was the Purport of Captain Aveling's Answer, or the real Words?—A. The Purport.

Lieut. Col. W. Q. Do you remember the particular Time this was spoken?

A. At the Time they were put in Arrest.

Prisoner, Capt. Litt. Q. Did you give any Account of what passed between Lord Harwicke and you at the first Meeting?

A. I said, at the first Meeting, Lord Hardwicke understood that the Letter was avowed by Captain Littell and Captain Aveling, but, as I before observed, that Meeting not being satisfactory, I then went to the Agent.

Q. Did any Officer make any Answer to that?

A. I think the Adjutant said, the Agent was the Person that received the avowal, and not Lord Hardwicke.

Q. Did not I and Captain Aveling both deny having made such an avowal?

A. I do not recollect any Answer, and not understanding Captain Aveling's Answer, was the Reason for my going to the Agent.

Q. Were we not all standing close together when this Conversation took place?

A. All near together.

Q. Through what Cause did you not understand Captain Aveling?

A. I did not know whether Captain Aveling avowed it or not.

Q. In what light did you look upon Captain Aveling's Words?

* To a superficial Observer this would appear as a Reply to the Lieut. Colonel's third time of putting the Question, whereas, by this Witnesses's Cross Examination, and the Evidence of other Witnesses, it appears, that it was said after the Prisoners were in Arrest, and the Lieut. Colonel had left the Room.

A. I did not understand from his Words whether he would avow the Letter, or not, or whether he had avowed it.

Q. Do you recollect the very Words?—A. I do not recollect the Words.

Q. Did Lieut. Col. Ward put the question for our Opinions on the anonymous Letter?—A. I do not know.

Q. Did we not deny to the Lieut. Colonel having avowed, or having had any intentions of avowing the anonymous Letter?

A. At this meeting I was a good deal engaged in Conversation with another Officer, and I do not recollect what passed.

Prisoner, Capt. Av. Q. Was the anonymous Letter read at the first or second Meeting?

A. It was not read at the first meeting, as you said there were plenty of Copies; they well understood it; the Letter was sent to the Adjutant, and avowed before this time.

Q. Was it the anonymous Letter or Copies that had been sent at that time?

A. Lord Hardwicke informed me, it was a Copy, and sent to me, then Commanding Officer, one at the same time.

Prisoner, Capt. L. Q. Was what I said that you said, in regard to the Belief of the anonymous Letter, in consequence of the Lieut. Colonel's asking my opinion?

A. I heard you say, you believed the Contents of the anonymous Letter to be true, after Lieut. Col. Ward had put you under Arrest, and had left the Room.

Q. Did you hear any thing that passed between the Lieut. Colonel and me, before he put me under Arrest?

A. As I observed, I was so engaged in Conversation, that I do not know what passed before.

Q. Was not you, during the Conversation between the Lieut. Colonel and me, seated by yourself, nearly in the middle of the room?

A. I believe I was in Conversation with the Adjutant.

Q. Was you in Conversation with any other Person during the Business?

A. Not particularly.

Q. Were there not, I may say, a solemn Silence in the Room, till I replied to the Lieut. Colonel?—A. I do not remember it.

Q. After the Lieut. Colonel had left the Room, did you ask me whether I had avowed the Contents of the anonymous Letter?—A. I believe I did.

Q. What answer did I make to you?

A. That you believed the Contents of the anonymous Letter to be true.

Q. Was that the whole of my answer?—A. I always understood it so.

Q. Did I, or did I not, disavow to you the avowal of the Contents of the anonymous Letter?—A. I do not recollect any other answer.

Q. Was not you a Prosecutor in the first Charge?—A. I was.

CAPTAIN WORTHAM duly sworn.

Lieut. Colonel W. Q. What declarations were made by Captain Littell and Captain Aveling, relative to the anonymous Letter, when, and where was it, what expressions did Captain Aveling make use of, and what expressions did Captain Littell make use of?

A. We, the Officers, were ordered over to Head-Quarters on Saturday, June 2d, when we were met together, Lieut. Col. Ward produced a Note from Lord Hardwicke, with an anonymous Letter, and asked if any Officer or Officers would avow the Letter, he repeated the question two or three times; at last Capt. Littell got up, and said, he believed the Contents to be true, Capt. Aveling did the same.

Lieut. Col. W. Q. Did Captain Aveling say any thing further that day, relative to the anonymous Letter?

A. After he was put in Arrest, and the Lieut. Colonel had left the Room, he said, if the Letter was published or printed, or Words to that effect, he would not scruple or hesitate to sign his Name to it, and let it be stuck up in every Market Town in the Kingdom.

Prisoner, Captain L. Q. Did not the Lieut. Colonel say that two Officers had avowed the Contents of the anonymous Letter, before I had spoke at all?

A. I do not recollect it.

Q. Whether what you said I replied to the Lieut. Colonel, was not in consequence of his having asked my Opinion, or to repeat my Opinion?

A. I do not recollect that it was.

Q. Whether there was any thing passed between the Lieut. Colonel's reading the Letter and asking for the avowal, and my answering?

A. I do not recollect there was; Words might have passed, but I do not recollect them particularly.*

Q. Did we not press the Lieut. Colonel to put the question round to every Officer individually, for their Opinions?—A. Yes.

Q. Did the Lieut. Colonel ask the Opinion of any besides Captain Aveling and myself?—A. No. §

Q. Did I not tell the Lieut. Colonel that I wished to have my Charge before the Officers were dismissed and left the Room, as I wished to speak to them together?

A. Yes, after you were in Arrest, you desired the Lieut. Colonel to give you his Charge in writing, and the Lieut. Colonel answered, you should have it in due time.

Q. When I was in Arrest, and the Lieut. Colonel had left the Room, did I make any declaration to the Officers?

A. You addressed the Officers, and said, what I am going to speak, I hope you will not attribute to Fear or Cowardice, as I have told Mr. Aust I believed the Contents of that Letter to be true, I shall not retract my Words or Opinion, or Words to that effect. †

Q. Did I not at the same time deny any Concern or Knowledge of the anonymous Letter, 'till my Lord Hardwicke had received it, upon my Honor?—A. Yes.

Q. Did I say any more than that?—A. I do not recollect more.

Q. Did I give any Reasons for saying that then, rather than before?

A. I do not recollect any Reasons given.

Q. Did I not say, that from having given my Opinion, some Officers might conclude, I had in some measure been concerned in it?

A. That might have been said, but I do not recollect it, as the Room was in Confusion.

Q. Whether I did not say, if I had made that declaration before, it might possibly have been attributed to Fear of Consequences?—A. I believe you did.

Prisoner, Captain Aveling. Q. Did not I desire Pen, Ink, and Paper to be brought into the Room, that the Officers might take down or make Minutes, as the Conversation might be of Consequence to Captain Littell and myself?

A. You desired the Officers would take down in Writing what had then passed in the Room, as they would most probably be called upon to give Evidence of what then had passed.

Q. Did you take any Minutes?—A. No. ‡

* By the first Part of this Evidence it would appear, that the Witness had related the Whole of what passed, and indeed he had, as far as went against the Accused; but when particularly called upon by them to say, whether there was any Thing more added, he allows Words might have passed, but that he did not recollect them. It was rather unfortunate for the Prisoners, that the Prosecutor, and the greatest Part of his Witnesses, remembered the Answers made by the Prisoners, but totally forgot the Questions that produced those Answers.

§ The Answer to this and the preceding Question, acknowledges (although the Evidence has before said he did not recollect it) that the Opinion of the Prisoners was asked of them by the Lieut. Colonel.

† If in this Answer, the Witness had said as the Words of Captain Littell, "What I am going to say, being now in Arrest, cannot be imputed to Fear of the Consequences," he might have been nearer the Truth, and have prevented the Necessity of remarking on the contradictory Absurdity of the whole Answer.

‡ This Witness acknowledges, one of the Prisoners desired the Officers would take down in Writing what passed; but he, conscious of his own great Abilities, and trusting to his very retentive Memory, did not comply with this Request, therefore he has not been able (*or perhaps willing*) to recollect much of the Business, unless where it appears to tend to the criminating of the Prisoners.

Q. At the time you say Expressions were made use of, relative to the publishing or signing the anonymous Letter, whether the Words to the Belief of the Contents were not included?

A. They might or might not be included, as the Expressions were made two or three times over.

* LIEUTENANT COTTON duly sworn.

Lieut. Colonel W. Q. What were the declarations made by Captain Littell and Captain Aveling, relative to the avowal of the Contents of the anonymous Letter; when and where was it; what Expressions did Captain Littell make use of, and what did Captain Aveling use?

A. On Friday, the first of June, I received an Order while at Royston, to be at Hockerill the day following, by one o'Clock, upon Regimental Business. The Lieut. Colonel explained the Nature of the Business, and read an anonymous Letter received by Lord Hardwicke; after the Letter was read, the Lieut. Colonel addressed himself to the whole, and asked, if any would avow themselves the Authors of it. After a considerable pause, and no answer being made, the question was again put by the Lieut. Colonel. Captain Aveling said something, the Particulars of which I cannot recollect, but afterwards said, he thought it would be more proper to put it first to the senior Officer, meaning Captain Littell; Captain Littell said, he believed the Contents to be true; Captain Aveling said the same. The Lieut. Colonel then said, then Gentlemen, you avow the Contents of the Letter; they answered, Yes: The Lieut. Colonel then ordered them into Arrest. When the Lieut. Colonel had left the Room, Captain Littell addressed us, and pledged his Honour, that he neither knew who was the Author or Writer, but believed the Contents to be true; Captain Aveling said, he could wish it to be printed in Capitals, and stuck up in every Market-place in the Kingdom, he should have no Objection to signing his Name to it.

Prisoner, Capt. L. Q. What Question did Lieut. Colonel Ward put to me after Captain Aveling had spoke?

A. I remember no other Question to be put.

Q. Did not the Lieut. Colonel say, two Officers had avowed the Contents?

A. He said, he was informed, two or three Officers would avow the Contents.

Q. Did the Lieut. Colonel mention who those Officers were?

A. I believe he did.

Q. Who were those Officers?

A. I think he mentioned Captain Aveling and Captain Littell had been to Mr. Aust, and avowed, or would avow, or believed the Contents to be true, or said there were Gentlemen in the Corps who would do it.

Q. Did I not say in Answer to that, that I had given my Opinion to Mr. Aust, on the anonymous Letter, on being shewn it?—A. I believe you did.

Q. Was it not in Consequence of that, that the Lieut. Colonel put that question to me?—A. I know of no question put to you by the Lieut. Colonel.

Q. On hearing the Lieut. Colonel say, that Captain Littell and Captain Aveling had avowed the Contents of the anonymous Letter to Mr. Aust, whether I did not deny that?—A. I am not certain.

Q. Will you explain the reasons I gave, on making a declaration after I was in Arrest, and the Lieut. Colonel left the Room?

A. I do not recollect any Reason given.

Q. After the Lieut. Colonel had asked, would any one avow the Contents, did he lay the Letter on the Table?—A. I believe he did.

Prisoner, Captain A. Q. Did he not then ask my Opinion on the Contents of the Letter; did I not refer him to Captain Littell as the senior Officer?

* The Evidence given by this Witness, is so absurd and so contradictory to all the other Evidences, as well as his own, that it is beneath a Comment.

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A. I do not remember the Lieut. Colonel's addressing himself to you in particular, but only to the whole in general.

Q. Was a general Opinion asked?—A. I believe not.

Q. Did you make Minutes at Hockerill, as I wished?

A. I did not, two present did, (Lieut. Tetfall, and Lieut. Jennings) either immediately, or before Dinner. I saw the Minutes, tho' I did not see them taken.

ENSIGN TUTING duly sworn, Surgeon to the Cambridge militia.

Q. Lieut. Colonel W.—What were the Declarations made by Captain Aveling and Captain Littell, relative to the avowing the Contents of the anonymous Letter; when and where was it; what Expressions did Captain Littell make use of, and what Expressions did Captain Aveling use?

A. At Hockerill, on the 2d of June, Captain Littell declared, he believed the Contents of the Letter to be true; Captain Aveling further said, that he would not hesitate to sign his Name to it in the public Papers. Captain Littell declared upon his Honour, that he did not write the Letter, nor was he concerned in writing it.

Prisoner, Capt. L. Q. Do you recollect the Lieut. Colonel's saying, Captain Aveling and I had avowed the Contents of the Letter to be true, before either of us answered?—A. No.

Q. Did I not say, I had given my Opinion before, and without Reason, would not recede from it.—A. Yes.

Q. Did I not say That, in Consequence of the Lieut. Colonel's putting the Question to me?

A. I do not recollect on what Occasion it was.

Q. Did I not give it for a Reason, that having given my Opinion before upon the Letter; it might appear as if I was in some Shape concerned in it?

A. I do not recollect.

Prisoner, Captain A. Q. If I mentioned, I would not hesitate to sign my Name to it in the public Papers, was it not to my Belief of it, according to your Recollection?—A. I do not recollect the Word Belief.

The COURT adjourned to Monday 23d, Half after Nine.

M O N D A Y, July 23d.

The COURT met pursuant to Adjournment.

Captain LITTELL's Defence.

My Lord and Gentlemen of the Court,

BEFORE I at all enter upon my Defence, or explain my Conduct upon this Occasion, I hope it will not be thought intruding, or taking up too much Time, to explain to the Court the Process this Business went through, before we appeared here in our present Situation; and the Causes that produced the Charge, we have to Answer. We were put in Arrest at Hockerill, on the 2d of June last, and two Charges given in to each of us, one from the Lieut. Colonel, and the other from the Major, but both expressing the same Crime, for aspersing Characters and Conduct; and, although I had from the first assured both the Commander in Chief, and Lieut. General Parker, that I should think no Time too early that would give me an Opportunity to justify my Conduct; we remained in that Situation

Situation for some Weeks, and should, in all Probability have remained so still, without hearing any Thing of it, if Lieut. General Parker had not sent to the Prosecutors, to know whether or no they intended bringing us to a Court Martial; this produced the necessary Answer: And on the Examination of the Charges, the Futility of them appeared so glaring, that one of the Prosecutors (the Lieut. Colonel) went to London, consulted a Gentleman of the first Abilities as a Military Lawyer, and employed him to make, or at least to endeavour to make, that Charge specious, which was in itself vague and ineffectual; and to this Source it is, that we owe the Charge that is at present before the Court, so that what it wants in Substance, is as amply supplied in Appearance as the most brilliant Talents can in such a Case produce. The Charge was delivered to us on the 27th of June, and we were in Hopes, notwithstanding the Pretences it was drawn up under, that a Court of Enquiry would have been held upon it. But as that did not take Place, and this Court thought proper not to hear our Objections against it, however difficult a Matter it is to give Reasons in some Cases for Opinions, we come now, thro' the Indulgence of the Court, prepared to answer it. The Charge, therefore, as it stands before the Court at present, is for aspersing the Characters of Lieut. Col. Ward and Major Stevenson, at two different Times and Places; which, I should wish for the Clearness of the Case, to keep entirely separate, and not begin with the one, till I have got through what I have to say upon the other. For this Purpose, I shall begin with the first Part of the Charge, which mentions our having aspersed the Characters of the Lieut. Colonel and Major, by declaring to Mr. George Aust, the Agent, that we intended to avow the Charges of an anonymous Letter sent to Lord Hardwicke, on the 25th of May, aspersing the Characters of the said Lieut. Col. and Major; in support of this, the Lieut. Colonel who is the Prosecutor, is himself the first Evidence, and although this Circumstance is in Favour of the Prosecution, I do not find any End it has in this Case answered, the Whole of the Lieut. Colonel's Evidence on this Head being founded on what he had heard from the Major, and Lord Hardwicke, by Letter, which being only Hearsay Evidence, and that at second Hand, I trust will have no further Weight with the Court, than as it agrees with the Evidence given by Mr. Aust himself. The Major's Evidence comes under the same Predicament; as does also that of Lord Hardwicke; for excepting having proved the Receipt of the anonymous Letter, his Lordship has said nothing more than what he had from Mr. Aust. In regard to Mr. Aust's Evidence (if so it may be called, for according to the best and most concise Writer, we have on Martial Law; Mr. Adye supported by Hobart's Reports, it is asserted, that, "Evidences in giving their Testimony, must relate the very Fact " that the Prisoner did, or the very Words that he made use of, for it is no Evidence in any criminal Case, that he did so and so, or said so and so, or Words " to the like Effect, because the Court must know the very Acts and Words, to " judge of their Force and Effect,") whereas, Mr. Aust has not said positively what even the Purport of our Words were, but that such appeared to be our Sentiments; and that he understood such to be our Intentions, without having affirmed that we positively asserted any one Thing whatever; I therefore, beg Leave in a particular Manner, to request the Attention of the Court to this Evidence, and to desire that they would not suffer our Honour and Character to be decided upon any such vague and futile Conclusions; for if Mr. Aust could not repeat the Words we made Use of, and the Constructions he put upon them are notwithstanding admitted as substantial Evidence, he is taking from this Court a Part of their Function, whose Power alone it is to judge of what is said or done; I should therefore think this Evidence not worth remarking on any further, had not there been a Suggestion, that Captain Aveling and myself had called there, as if we knew of meeting each other; but as Mr. Aust swore I called there upwards of Half an Hour after him; that I was shewn into another Room; that I neither enquired for him, nor he for me; that I called upon him to receive some Cash, as I generally do; and that Captain Aveling frequently called on him on a Visit; I think there need no further Denial of it, than my asserting, that I had no

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Thought of meeting him there whatever. In Regard to the other Part of Mr. Aust's Evidence, mentioning, that he understood the Cause of desiring a Copy of the anonymous Letter, for the Adjutant to communicate to the Officers in general, was for the Purpose of avowing the principal Charges, or of framing some Accusations or Representations thereon; but I can most stedfastly assure the Court, that the only Reason I gave was, that as the Adjutant had received a Letter from Lord Hardwicke, mentioning to him the Receipt of the anonymous Letter, in a particular Manner, I thought he ought to have for this Reason a Copy of it; and as I found a Copy of it in Mr. Aust's Hands, I joined in requesting one for this Purpose, and for no other whatever. Having said thus much, in leaving this first Part of the Charge to the Court, I find myself perfectly easy, and shall consequently proceed to the second, which states, that I declared at Hockerill, before several Officers, that I believed the Contents of the anonymous Letter to be true; this I must confess comes much nearer to the specific Truth than the other, for although the Causes why I am said to have made use of those Words are not stated there, yet I will be open, and hold nothing from the Court, and therefore admit that I did make use of these Words; but then it was in Repetition of an Opinion I had given to Mr. Aust, which the Lieut. Colonel challenged me with, and called upon me to repeat; and then it was with this Addition (as far as my Knowledge goes) which he is candid enough to allow in his Evidence against me; this was the Question I wanted so much to bring out by the Cross Examination I persisted in so strenuously, and in which I am afraid the Court thought me too tedious; but when the Court comes to examine the Evidence, and finds the various Answers that are given to avoid bringing it out, and although I could not get any that remembered it, there was not one that absolutely denied it, but that some on the contrary tacitly acknowledged it; I flatter myself, they will find my Time not totally misemployed; in this Place I must beg to shew the Court, as must have been conspicuous in several Parts before, the forced Construction of the Charge. I am summoned to Head-Quarters for no other Purpose than to be charged with having avowed the Contents of an anonymous Letter, and to have the Opinion I had before given, drawn from me in the Presence of all the Officers, who, excepting Captain Aveling, are likewise summoned for no other Business than to hear me; and though this is the Case, I am desired to repeat my Opinion; I am put in Arrest for aspersing Characters and Conduct in the Presence of several Officers; being thus situated, I flattered myself so far from behaving unbecoming the Character of an Officer and a Gentleman, I maintained both those Characters, as I have hitherto done invariably; and that those who forced me either contemptibly to deny, or boldly to assert what I had before given as a private Opinion, were alone culpable. If I had given that Opinion to the Gentlemen's Faces, unasked; if I had given it any where else in publick, where they were not present; or if they could at all prove, that I had made a Practice of setting such an Opinion forward, it might have had quite a different Appearance: But I trust I shall prove, that I was challenged with it, and in great Measure dared to it, by the Principal himself, and that I shall have the Excuse of the Court. As to the Evidence of Lieut. Cotton, I think no great Stress can be laid upon it, from the Confusion that appears in it, and from his having exceeded even the Charge itself; yet as it slipped our Notice on his Examination, we propose having him again before the Court, that he may explain his former Evidence; for his Testimony is not only so very different from all those of the same Side, but is also very different from the real Truth, that he will be most pointedly contradicted. In Consequence of the Question put to Lord Hardwicke by the Court, relative to his receiving a Request from the Officers, that the Majority might go in the Corps, and of the following Question to the Lieut. Colonel, I found it necessary to ask his Lordship a few Questions, the Answers to which are, I flatter myself, satisfactory in Regard to me; for though the Petition might not possibly desire expressly that it might go in the Corps according to Seniority, yet that was certainly implied according to the Rules of the Service in general, and as the Event has evinced; For besides his Lordship

ship having mentioned that I was next in Seniority to the present Major, and did not apply to him for that Commission, I can prove that the Words were, that it might not be filled by any Person that is not in the Regiment; so that the Phrase, according to Seniority, could not be in that Place made Use of. I cannot in any Shape suppose, that this Court can suffer any Impression to be made upon it by what the Lieut. Colonel might say, by Way of opening the Prosecution; but as there was one Circumstance, I understood he mentioned, which appeared to me so diametrically opposite to all Reason, that I cannot help mentioning it. This was the Excuse or Plea that he alledged, to justify the Step he had taken against us, as it was done, he says, in Consequence of Lord Hardwicke's Letter, and in Justification of his own Conduct; but I believe it is the first Step of the Kind that ever was taken, for one Gentleman to excuse himself by accusing others, and is usually done for a very different Purpose. I trust to be able to prove to the Satisfaction of the Court, that all I have been guilty of in this Affair, is the giving my Opinion in a private Manner to the Agent, and of thinking it beneath a Gentleman to deny that Opinion, when called upon in publick by the Principal himself; at least this is all, I most solemnly assure the Court, that I am aware of myself, and of which I trust the Declaration I made to the Officers, immediately after I was put in Arrest, will be some Conviction; and so far from the Prosecutors being able to produce any to corroborate the Suspicion they have suggested against me, I dare them to prove one single Action of me, that has ever disgraced the Gentleman or the Soldier. But, if on the contrary, in Justification of what I have said, I should prove that the Prosecutors have been called by the most opprobrious Names, without one Spark of Resentment, and put up with such Insults, as neither the Gentleman nor the Soldier should submit to; besides their Behaviour as Officers, I trust this Court and the Camp will see, not only the Origin of this, but of every Court Martial that has disgraced our Regiment. I have now only to make my warmest Acknowledgments to the Court, for their very candid and patient Attention during the Trial, and in particular for the Indulgence granted us for Time to prepare our Defence. I also beg Leave to return my very sincere Thanks for his Trouble, to the Dep. Judge Advocate, and for his very candid and impartial Behaviour during the Trial. And I can assure the Court, from the Innocence of my own Intentions, as well as from the high Opinion I entertain of their Justice and Candour, that it is the greatest Satisfaction to me, thus to submit my Trial.

Captain THOMAS BAXTER AVELING's Defence.

My Lord, and Gentlemen of the Court,

SENSIBLE of the Indulgence of Time the Court has allowed me to prepare for the Defence I am about to make, to the Charge preferred against me, I beg you will accept my hearty Thanks for it. I flatter myself, the Court will allow me to make some few Observations on the whole Case, before I adduce the Proofs on which I mean to rest my Defence. The Observations which Captain Littell has just now made to the Charges on which we have been put to our Trial, apply equally to both of us, and therefore I would not wish to intrude on the Time of the Court, in repeating or endeavouring to give greater Force to the Reasons offered by Captain Littell, to prove that the Charge itself is most singularly objectionable, if not totally groundless. I am well assured, that those Observations will have their due Weight, when deliberately considered and applied to our respective Situations. The Prosecutor, in opening his Case, has endeavoured to impress an Idea on the Minds of the Court, and has attempted to support that Idea by Words, but not by Proof, that Captain Littell and myself had planned an Intention of avowing the Letter, and had for that Purpose met at Mr. Aust's; and in order to give a Colouring to that Notion, he stated that I went on the 15th of May last to Mr. Aust, for the express Purpose of meeting Captain Littell, and having no other Business that

that Day with Mr. Aust, I could go for no other Purpose. To this weak but pointed Charge, I have only to observe, that Mr. Aust in his Evidence has said, that I frequently paid friendly Visits to him; and that such was my Intention on that particular Day, I most solemnly aver; and that I neither knew of meeting Captain Littell, enquired after him, or knew that Mr. Aust was in Possession of a Copy of the anonymous Letter. The Accusation against me being founded on a Conversation that passed between Mr. Aust and myself, respecting the anonymous Letter, I beg Leave first to take notice of that Conversation. On my calling upon Mr. Aust, on the 15th of May, he informed me, he was in Possession of a Copy of an anonymous Letter, sent to Lord Hardwicke, and asked me if I chose to read it; on my answering in the Affirmative, he went for it, and after I had read it, he asked my Opinion, which I gave as was incumbent on me as a Gentleman, considering Mr. Aust as my Friend; in respect to the particular Facts contained in the Letter, which Mr. Aust in his Evidence has stated that I remarked upon, he has not said I gave a positive Opinion that those Facts were true, but only that I believed them to be so, except as to the Major and Ensign Tuting, on which I had founded a Belief from the particular Information of Gentlemen, who bear Commissions in the Regiment. With Respect to the Desire which Mr. Aust states to have been expressed, that a Copy of the Letter might be sent to the Adjutant, my only Reason was, that having been told by the Adjutant, that such a Letter had been received by Lord Hardwicke, and finding a Copy of it to be in Mr. Aust's Possession, I thought it no Impropriety in joining with Capt. Littell to request one to be sent: Whether I was justified in giving my Opinion to Mr. Aust, that the Contents of the anonymous Letter were true, I shall submit to the Court, from the Proofs I shall lay before the Court in Support of that Opinion; however, I beg Leave to observe, that such Opinion might be given without Reserve, and some of the Facts stated in the Letter, I, from my Situation in the Regiment, might be supposed competent to give or form an Opinion of. Mr. Aust in his relative Capacity, as Agent to the Regiment, might be, and was justifiable in speaking, or requesting another to speak his Sentiments on the Subject of it, * desiring a Copy to be sent to the Adjutant, he understood, in Order to avow the principal Charges, or of forming some Accusation or Representation on them;* and such Conversation being in private, and Mr. Aust, nor any other Evidence, having ventured to assert (what indeed they could not) that I had mentioned my Opinion to any other Person than himself, and at the Meeting at Hockerill, it can only bear the Construction of a private Opinion, given when asked by one Gentleman from another, and certainly cannot be deemed as Aspersion. I am now come to the Charge itself, which is on two particular Grounds, first, for aspersing the Characters of two superior Officers in the Regiment in which I hold a Commission, by declaring before Mr. Aust, Agent to the Regiment, that I intended to avow certain Charges against those Officers, contained in an anonymous Letter sent to the Lord Lieut. of the County to which the Regiment belongs. 2d, By declaring before several of the Officers of the Corps, that I believed the Contents of the said anonymous Letter to be true. As to the first Part of the Charge, the only Evidence that is, or could be brought in Support of it, is Mr. Aust, who in order thereto, should speak to the Words or Substance of the Charge, which are, that I declared in his Presence my Intentions to avow certain Charges contained in the anonymous Letter sent to the Lord Lieutenant of the County. I beg Leave to submit, that Mr. Aust has not in any Respect given Evidence in Substance of the Charge, for he has not made one positive Assertion to that Effect; he has only ventured to say, that by (desiring a Copy to be sent to the Adjutant, he understood it was for the Purpose of avowing the principal Charges contained in it, or of forming some Accusation or Representation in Consequence of it;) which Understanding or Opinion is more likely to be erroneous than right, considering the Hurry of Business and Confusion which Mr. Aust repre-

* The Sentence included between the Asterisks, does not belong to that Place, as appears from the Original delivered to Capt. Hunt to copy from, which is now in the Possession of Mr. Aveling; and which Sentence appears in its proper Place, with the Alteration of a Word or two, included in this Mark ().

sented himself to have been in at the Time the Conversation happened, and if that Opinion is not supported in Fact, it certainly falls to the Ground; and that it is not supported is certainly true: For if I had so determined, it is not to be supposed that after the Copy of the anonymous Letter had been sent to the Regiment, which it was some few days afterwards, I should have been backward in avowing what Mr. Aust has been pleased to think I meant to do. Gentlemen, my Conduct has manifestly shewn the Contrary, to prove which it will be only necessary to state the Proceedings, which were had after the Copy of the Letter had been sent to the Regiment. The Major apprised by Lord Hardwicke, as he hath sworn, of what Mr. Aust had said to his Lordship respecting the Conversation which passed at Mr. Aust's, summoned Captain Littell and myself to Head-Quarters, on the 24th of May, the Adjutant was ordered to attend, and the Colonel hath sworn with an intention of putting us under Arrest; the Letter was produced, and the Question put by the Colonel, would any one avow it, declaring if no one would it must fall to the Ground; neither Captain Littell or myself avowed, or expressed an intention to avow the Letter, and we parted, the Colonel having been first requested to summon all the Officers to hear the Letter read, which he ordered accordingly, but afterwards countermanded that Order; the Colonel, however, at last, did order the Meeting, it was held at Hockerill, the 2d of June, when he asked the Question, would any Gentleman avow the Letter? this Question was put two or three Times, to which no Answer was given, 'till at Length he asked the Opinions of Captain Littell and myself, to which it appears by the Colonel's Evidence, my Answer was, you know my Opinion; he instantly ordered me into Arrest as he has sworn, and no further Conversation passed between the Colonel and myself, as he immediately left the Room upon telling Captain Littell he should have his Charge in due Time. I beg here to remark, that my Conversation at the second as well as the first Meeting, shew neither a Forwardness nor a Wish to avow, or even give an Opinion, till pressed so to do by the repeated general, and afterwards particular Question put to me by the Colonel, and I take the Liberty further to remark on the Conduct of the Lieut. Colonel at that Meeting, for it seems to have been a Plan, or contrived Scheme to entrap me into the giving such an Opinion of the Letter, as might by strained Constructions be deemed what I never meant, an Avowal of the Letter; for the Colonel has assigned the Reason for not putting me in Arrest at the first meeting at Hockerill, (namely,) on Account of a Defect of Evidence, and the Colonel has also assigned a Reason for not asking the Opinion of the other Officers at the second Meeting, (namely,) because he had no Proofs of the avowal of the Contents of the anonymous Letter to be true, only from Capt. Littell and myself, so that it evidently appears, the Colonel's Purpose being answered in drawing from me my Opinion, which in Words as he has sworn was my Opinion; he did not chuse to investigate further Opinions, apprehending possibly there might have been several similar. Upon the whole of Mr. Aust's Evidence, I contend no Proof is adduced of an Intention to avow the anonymous Letter, or it's Contents, and that therefore, the first Part of the Charge is not proved, and I hope to shew, that the second Part of the Charge is equally unsupported, and to that End I must observe, that there is a material Distinction between the *Declaration* of a Fact, and the giving an *Answer* respecting a Fact; the first is voluntary, the other Civility demands. The Allegation stated in the latter Part of the Charge, is for declaring before several of the Officers of the Corps, that I believed the Contents of the anonymous Letter to be true, and I submit it to the Court, that the Distinction I have just pointed out, that the *Declaration* to be deemed so, must be voluntary, and not an *Answer* depending on a preceding Question, is applicable to my Case; for when at Hockerill, as I have before stated, I shewed no Forwardness or Intention to avow the Letter, neither did I make any Declaration, or say any Thing respecting it, till particularly called upon for my Opinion by the Lieut. Colonel, an Answer to whose Question it would have been ungentleman-like to have refused, and I therefore gave that Answer in public, when called upon, which in private I had given, and which in all Probability would have remained in my own Breast, had

it not been drawn from me by the particular Question, put to me by the Lieut. Colonel. If this Distinction is admissible, I humbly apprehend the whole Charge remains unsupported, for the whole Evidence that has been given on that Part of the Case, only applies to the Answer given by me to the Colonel's Question, and not to any Declaration or Assertion of my own unasked. I mean to say this as confining myself to what passed previous to my being put under an Arrest; it remains with me to make some Observations on the Evidence; but previous thereto, I beg Leave to say a few Words on some hasty and unguarded Expressions, said to be made use of by me after I was put in Arrest, and which were forced from me by the Conduct of the Colonel, and which, though I apprehend and submit to the Court, are not cognizable under the present Charge, being spoke after I was a Prisoner; yet, least it may make an unfavourable Impression on the Court, I have in my Justification to plead, that being put in Arrest for expressing an Opinion when asked, which I thought my Duty, I felt what any Man might feel, on the Idea of an Injury; and might make Use of Expressions in Warmth, which have been represented by the Evidences so many different Ways, that no direct Construction can be put upon them; nor can they be considered in any other Light, save only that they may tend to confirm what I before said, my Belief of the Contents of the anonymous Letter. Indeed, the Confusion the Room was in, on so extraordinary an Event, makes it scarce probable, that any Gentleman could be able to speak with Precision to Words, which the Major has declared in his Evidence, he could not do on that Account. In Respect to the Evidences that have been brought, to support the second Part of this Prosecution, they have most of them spoke to my expressing my Belief, at the second Meeting, that the Contents of the anonymous Letter were true. They have none of them gone further, except Lieut. Cotton, who has in his Evidence, gone beyond every one produced; having sworn to an Observation made by the Colonel, after I had given my Opinion (namely) "then Gentlemen, you avow the Contents;" and also to an Answer made to such Observation by Captain Littell and myself, "that we did." In Opposition, if not in Contradiction, to the Evidence of Mr. Cotton, I beg Leave to state particularly the Evidence of the Lieut. Colonel to this Point: He has sworn, that upon Captain Littell's having expressed his Belief of the Contents of the Letter, as far as came to his Knowledge, he asked my Opinion, and says that I answered, "there are we three;" and gives it as a Reason, that having no Proof but upon Captain Littell's and my Declarations, he ordered us under Arrest; here it must strike the Court, that the Colonel's not suffering me to proceed with the Sentence that I had began, but at the above Words, "there are we three," being spoke, he hastily said, which is the Fact, then Gentlemen I order you under Arrest; consequently could not leave a Space of Time for the Observation Lieut. Cotton has said the Lieut. Colonel made, and our supposed Answer; this Proof, therefore, I flatter myself, is quite sufficient to invalidate that part of Mr. Cotton's Evidence. The Chain of Evidence which has been adduced for the Prosecution, having been in the principal Points examined by Captain Littell, and the Objections thereto stated, has made it unnecessary for me to go so fully into the Evidence myself; and I will not therefore take up the Time of the Court further, as the Objections and Observations to the Prosecutor's Evidence, as well as the Proof to be brought in Support of our Opinions, are, or will be generally applicable to both: And as I trust this honourable Court will weigh with Attention the several Circumstances, which either in Proof, or from my own or Captain Littell's Observations, will tend to clear my Character, from the Stigma so unjustly attempted to be fixed upon me, of aspersing, or intending to asperse the Characters of the Prosecutors, in the Manner stated in the Charge. And however disagreeable it is to me, to bring such Proof as will be necessary to justify the Opinion I have given; yet in Justice to myself, I am under the disagreeable Necessity of requesting the Attention of the Court, to what I am sorry that my Opinion should oblige them to hear. Confidently relying on the Justice of this Court, I submit my Case to their Determination.

LIEUT.

LIEUT. JAMES ROOK, of the Camb. Militia, duly sworn.*

Prisoner. † Q. What Question did the Lieut. Colonel put to the Officers, after reading the anonymous Letter?

A. He asked the Officers if any of them would avow the Letter.

Q. Did any one answer that Question?—A. No.

Q. Did you hear any Persons say, they would avow the Contents of that Letter?

A. I did not.

Q. Did Captain Littell and myself say we did not avow it?

A. I did not hear it.

Q. Was you in the Room the whole Time?

A. I believe I was, I left several Officers in the Room when I went away.

Lieut. Colonel W. Q. Did you hear Captain Littell say, he believed the Contents of the anonymous Letter to be true, as far as came within his Knowledge?

A. Yes, I did.

Q. What did you hear Captain Aveling say?

A. That he believed the Contents of the anonymous Letter to be true.

Q. After that I left the Room, did you hear Captain Aveling say any Thing further relative to the anonymous Letter?

A. No more than what was said before.

Prisoner, Capt. L. Q. Did you hear the Lieut. Colonel say, two Officers had avowed the Letter?

A. I heard him say, he understood some Officers would avow the Letter.

Q. Did the Lieut. Colonel say who those Officers were?—A. I never heard him.

Q. Did the Lieut. Colonel say, two Officers had avowed the Letter before I spoke?—A. Yes. I believe he did.

Q. Did not I say, I had given my Opinion on the Letter?

A. I do not recollect to have heard that.

Lieut. Colonel W. Q. Did I not read Lord Hardwicke's Note, and the anonymous Letter, the first Things done after the Officers had assembled?

A. I remembered the anonymous Letter, but I do not recollect the Note.

Lieut. JOHN JENNINGS of the Camb. duly sworn. ‡

Prisoner, Capt. L. Q. Was you at Head-Quarters on the 2d of June?

A. I was.

Q. Did the Lieut. Colonel read the anonymous Letter?—A. He did.

Q. Did he not twice ask whether any Officers would avow it?—A. He did.

Q. Did he not say, he heard two of the Officers had avowed it?

A. I do not know he did.

Q. Did he say something to that purport?—A. I do not recollect it.

Q. Did I not deny having avowed it?—A. I do not remember you did.

Q. Did I not say I had given my Opinion about it to Mr. Aust?—A. Yes.

Q. Did you take Minutes of what passed?—A. Not of the whole.

Q. When did you take those Minutes?—A. As soon as the Meeting was over.

Q. What Declaration did I make after Lieut. Colonel Ward left the Room that I was in Arrest?

* This being the first Witness called upon the Defence, his, as well as the subsequent Evidences, will shew, that there was not quite so good an Understanding between the Prisoners and their Witnesses, as on the Side of the Prosecution; they therefore think it necessary to mention, that so far from knowing what Answers their Witnesses would make, or even what Points they would speak to; their chief Reason for summoning them was, because they were not summoned by the Prosecutor with his other Evidences; and that two out of the three had taken Minutes of what passed at Hockerill, and consequently were more likely to speak with Precision to the Facts.

† Read Prisoner, Capt. A.

‡ This Witness, as appears by his Evidence, took Minutes only in Part of what passed.

A. That

A. That you had given your Opinion to Mr. Aust; that you believed the Contents of the anonymous Letter to be true; and that you scorned to recede from what you had once asserted †.

Q. Did I say any Thing else?—A. I do not recollect.

Q. Have you those Minutes by you?—A. I have.

Q. Did the Lieut. Colonel desire me to repeat my Opinion that I had given to Mr. Aust?—A. I do not remember.

Q. Did you shew me your Minutes?—A. I did.

Q. The Minutes you now have, are they those Minutes?—A. They are.

Prisoner, Captain L. Q. What passed at that Meeting?

A. Lieut. Colonel Ward read the anonymous Letter, and asked, if any of the Officers would avow themselves the Authors, no Person spoke; he asked a second Time without a Reply; he then asked Captain Littell, who said he believed the Contents to be true; he then asked Captain Aveling, who said, he avowed the Contents to be true; Lieut. Colonel Ward then said, I order you both in Arrest. Captain Littell then got up, and said, Colonel, if you will but put the Question round, I believe there are other Gentlemen of the same Opinion; Mr. Tolver, the Adjutant, then said, let it stand as it is, I think it will be better for you. The Lieut. Colonel was then going out of the Room, Captain Littell said, Sir, I have something further to remark; the Lieut. Col. said, I have nothing to do farther, you are in Arrest, and left the Room. Captain Littell immediately declared upon his Honour, before all the Officers, that he had no Concern in writing the Letter, but as he had told Mr. Aust, that he believed the Contents to be true, he scorned to recede from what he had once asserted. Captain Aveling then said, that if the Letter was put into all the News-papers, he would not be ashamed to put his Name to it.

Q. Did not an Officer in the Room desire the Lieut. Colonel to put the Question round for Opinions?—A. The Adjutant did.

Q. Was it not in Consequence of that, the Lieut. Colonel put the Question to me?

A. The Colonel had already put the Question to both of you.

Q. Did the Lieut. Colonel ask our Opinions?—A. Yes.

Q. Was not the Answer in Consequence of that?—A. I conceive it was*.

Prisoner, Capt. A. Were the Words relative to the Newspapers, after I was in Arrest?—A. Yes.

Q. Did you hear the Words to the Belief of the Truth?—A. I did.

Lieut. Colonel W. Q. Did not you say, Captain Aveling avowed the Contents?—A. I did.

Q. Did I not say, after reading the anonymous Letter, will any Body avow it, before I said any Thing else?—A. Yes.

Lieut. WILLIAM TETSALL of the Camb. sworn §.

Prisoner, Capt. L. Q. Was you at the Meeting at Hockerill?—A. Yes.

Q. When the Lieut. Colonel had read the Copy of the anonymous Letter, and had put the Question, who would avow it, did an Officer desire him to ask the Opinion of all the Officers?—A. Yes.

Q. Did the Lieut. Colonel do it in consequence?—A. He did.

Q. Did he ask me in particular?

A. The Lieut. Colonel asked all round, who would own the Writing of the Letter, and nobody answered.

† This is the Substance of the Declaration made by Capt. Littell, which was so tortured by Capt. Wortham, in his Relation of it; and which not only proves, that what he had just said was Matter of Opinion, but as far as presumptive Proof can go, that it was given as a Repetition of what he had before said to Mr. Aust.

* Here it appears, the Prisoners Answers were in Consequence of being asked their Opinions.

§ This Witness took Minutes of what passed at Hockerill, as appears by the Evidence of Lieut. Cotton.

Q. Did

Q. Did the Lieut. Colonel say two Officers had avowed it.—A. Yes, he did.

Q. Did he say who they were?—A. He said, Capt. Littell, and Capt. Aveling.

Q. Did I, or did I not, deny having avowed it?—A. You denied. ||

Q. Whether an Officer did not desire the Lieut. Colonel to ask the Officers all round as to Matter of Opinion.?

A. Yes, an Officer did.

Q. Did the Lieut. Colonel do that?—A. Yes.

Q. Whose Opinion did he ask?

A. Yours and Captain Aveling's, and your Opinion was, that the Contents of the anonymous Letter were true.*

Lieut. Colonel W. Q. After my reading the anonymous Letter, did not Captain Littell say, I believe the Contents to be true as far as come within my Knowledge, before I said any Thing else?—A. As to Time I do not recollect.

Q. What said Captain Aveling after I left the Room?

A. Captain Aveling said, he believed the Contents to be true.

Q. Did Captain Aveling say any Thing further?

A. He said, if it was advertised in the Papers, he should not be ashamed to put his Name to it.

Captain Av. Q. Was it not to the Belief of the Contents of it, as to the Truth of the Contents?

A. To the Belief of the Contents of the Letter. †

Serjeant JOHN PEAD, of the Camb. being duly sworn.

Captain Av. Q. Was you ever upon Quarter-Guard at ‡ Picquet, when Lieut. Colonel Ward was Field Officer?—A. Yes.

Q. How often?—A. Upon Picquet once.

Q. Did you go the Rounds with him?—A. Yes.

Q. Was Lieut. Colonel Ward drunk that Night?—A. Yes, Sir.

Q. Did he abuse Ragin the Drummer, or any of the Guard?

A. Ragin the Drummer.

Q. Have you at any other Time, when the Lieut. Colonel was upon Duty, seen him drunk?—A. Yes.

Q. Were the Men in the Night, ever disturbed by the drunken and riotous Behaviour of the Lieut. Colonel.—A. Yes.

CHARLES RAGIN, Drummer in the Camb. duly sworn.

Prisoner. Q. Did you ever go the Rounds when Lieut. Colonel Ward was Field Officer of the Picquet, was he drunk upon that Duty, and did he ever abuse you?—A. He was drunk, and he beat me.

Q. Did you ever see him drunk upon Picquet more than once?—A. Yes.

Q. Have you heard any bye Word pass from Tent to Tent amongst the Men in the Night?—A. Yes, I have.

Q. For whom?—A. For the Colonel.

Q. What was the bye Word?—A. Only for the Colonel.

Q. Did he run from Tent to Tent swearing and making a Noise?

A. Yes, several Times.

Q. At what Hour of the Night?—A. About Twelve.

|| This shews that the Prisoners were charged with having avowed the Contents of the Letter, and that such was denied.

* This shews that the Opinions of the Prisoners were particularly asked for, and given in Consequence.

† At this Time, the Prisoners apprehending they had substantiated those three Facts which they all along contended for (namely) that they were charged with having avowed the Contents of the anonymous Letter to be true; that they denied such Charge; and that what they said, was in Consequence of being asked the Opinion they had before given to Mr. Aust.—Having proved this, which is all they wished to wipe off of the Charge that was exhibited against them, they went into Evidence, to shew the Grounds they had for the Opinions they had so given.

‡ For *at*, read *or*.

Q. Was there any Noise or Disturbance till the Colonel made it ?
A. I heard none.

THOMAS PRESTON, Drummer in the Camb. duly sworn.

Prisoner. Q. Was you ever upon Picquet, when Lieut. Colonel Ward was Field Officer of the Night ?—A. I was.

Q. How often ?—A. Twice.

Q. Was Lieut. Colonel Ward ever drunk upon that Duty ?—A. He was.

Q. Did you go the Rounds with him ?—A. I did.

Q. Did Lieut. Colonel Ward beat you and abuse you ?—A. He did beat me.

Q. Did Lieut. Colonel Ward give a Reason for beating you ?—A. None at all.

Q. Did you shew any Marks of being beat ?—A. I did.

Q. To whom ?—A. To the Serjeant Major.

PHILIP WEBSTER, Private in the Camb. sworn.

Prisoner. Q. Was you ever Sentry at the Colours ?—A. Yes.

Q. Did you ever challenge the Lieut. Colonel with who comes here ?—A. Yes.

Q. What answer did he give ?—A. The Devil.

Q. What did you say to him ?—A. Advance, Devil, and give the Counterfigh.

Q. Did Lieut. Colonel Ward give you the Counterfigh ?—A. Yes.

Q. Was you ever Sentry at the Colonel's Tent ?—A. Yes.

Q. Was you ill-treated by the Lieut. Colonel, or abused when on that Post ?

A. Yes, I think I was, I was well licked.

Q. At what Hour of the Night ?—A. Between Twelve and One.

Q. With what was you licked ?—A. With a Cane.

Q. Did you hear that Night any Noise at the Quarter-Guard ?

A. Yes, there was a Noise there that Night.

Q. Was Lieut. Colonel Ward drunk either of the Times abovementioned ?

A. I think he was.

Lieut. Colonel W. Q. Was you pissing against my Tent ?

A. No, nor never had such a Thought.

Serjeant ROBERT WALTON, of the Camb. Militia, sworn.

Prisoner. Q. Was you ever on Quarter-Guard, when the Lieut. Colonel came to it of a Night ?—A. Yes.

Q. Was Lieut. Colonel Ward drunk when he came to the Guard ?—A. Yes.

Q. Did he strike or abuse any of your Guard ?—A. Yes.

Q. Who did Lieut. Colonel Ward strike ?

A. He struck me, and David Carter.

Q. Was David Carter, Sentry at that Time ?—A. Yes.

Q. Did Lieut. Colonel Ward confine you ?—A. Yes.

Q. Did Lieut. Colonel Ward confine you again, and for what ?

A. I cannot tell for what, there was no Crime given.

Q. Did he strike you again after he released you ?—A. No.

DAVID CARTER, Private, duly sworn.

Prisoner. Q. Was you ever Sentry at the Lieut. Colonel's Tent, and was you ever ill treated when on that Post ?—Yes, Sir.

Q. In what Manner ?—A. With a Cane.

Q. Was Lieut. Colonel Ward sober ?—A. Forward in Liquor, I supposed him.

JAMES FULLER Private, duly sworn.

Prisoner. Q. Was you ever Serjeant of the Picquet, when Lieut. Colonel Ward was Field Officer of the Night ?—A. Several Times.

Q. Was Lieut. Colonel Ward ever drunk on that Duty?—A. Yes.

Q. Do you recollect how often?

A. I do not remember the Colonel ever sober, when I went the Rounds with him.

Court. Q. Who reduced you from Serjeant to the Ranks?

A. Major Cotton.

Prisoner. Q. How did Lieut. Colonel Ward behave to the Men on that Duty?

A. Very ill, one Night he abused me.

Q. Did he abuse any Body else, and whom?

A. One James Flack, Sentry at the right Flank, and Robert Lee, who was going the Rounds with me.

Q. Have you ever seen Lieut. Colonel Ward drunk, when the Regiment was under Arms at Exercise?—A. Yes.

Q. At what Time, on what Day, and where?—A. I cannot recollect.

Court. Q. How did you know Lieut. Colonel Ward to be drunk, when exercising the Regiment?—A. By his Behaviour.

Q. Did you ever complain to your Officers, of Lieut. Colonel Ward's ill Treatment?—A. No.

Q. By what particular Circumstances in Lieut. Colonel Ward's Conduct, did you imagine him to be drunk?

A. That Night he abused me, he could hardly Walk; his Servant came to take him away.

The COURT adjourned till Nine next Day.

T U E S D A Y, July 24th.

The COURT met pursuant to Adjournment.

CORNELIUS WALE S, * Private of the Camb. sworn.

Prisoner. Q. Was you ever on Picquet, when Lieut. Colonel Ward was Field Officer of the Picquet?—A. Yes.

Q. How many Times?—A. Three.

Q. Was Lieut. Col. Ward drunk either of those Times?—A. Yes, twice.

Q. Did he go the Rounds both Times?—A. No, only once.

Q. Did you see him the Night he did not go?—A. Yes.

Q. Where was he?

A. In his Marquée; I was ordered by the Lieut. Colonel to go the Rounds with him, at Eleven; I went, he was not in his Marquée; between Twelve and One his Servant called me, and I went, and found the Colonel in his Marquée, without his Shoes, and without his Waistcoat; he told me, he should not go his Rounds, all was very well.

Q. Was Lieut. Colonel Ward drunk?—A. Yes.

Court. Q. By what particular Circumstances did you imagine him drunk?

A. He could hardly stand.

Prisoner. Q. Did he send to tell the Quarter-Guard he should not visit?

A. I was not ordered to go at all.

Q. What happened that Night Lieut. Colonel Ward did go the Rounds?

A. Nothing particular, only that he beat the Drummer, Preston, very much.

Q. Do you ever remember the Lieut. Colonel drunk, when the Regiment was under Arms at Exercise?—A. Yes.

Q. Did you ever know him drunk, when the Regiment was out in Brigade?
A. Yes.

Q. What was the Conduct of the Lieut. Colonel, in Brigade that Day?

A. He called out Berkshire instead of Cambridgeshire, and then said, with an Oath, he meant Cambridgeshire, and wished the French were shooting Bullets through them.

Q. Were those the only Reasons for your thinking Lieut. Colonel Ward drunk?

A. Yes, the particular Reasons.

Q. Who commanded your Brigade?—A. I cannot tell.

JAMES SEWEL, Private Camb. Militia sworn.

Prisoner. Q. Was you ever on Guard when the Colonel visited?—A. Yes.

Q. Did he strike any of the Men on Guard?—A. Yes.

Q. Did he beat a Sentry on his Post?—A. Yes.

Q. At what Time of the Night?—A. Between Ten and Eleven.

Q. Was there a Fire at the Quarter-Guard?—A. Yes.

Q. Did Lieut. Colonel Ward go to the Fire?—A. Yes.

Q. How long did he stay?—A. Three Quarters of an Hour.

Q. Did he swear, and make a Disturbance amongst the Men?—A. Yes.

Q. In what Manner?—A. Because we had got a Fire.

Q. Were there Fires at other Quarter-Guards?—A. Yes.

Q. Was it an Officer's Guard?—A. Yes.

Q. Who was the Officer of the Guard?

A. I do not know; Lieut. Cotton, I think.

Q. Was you ever on Quarter-Guard at any other Time?—A. Yes.

Q. Do you recollect the Officers you have been on Guard with?—A. No.

Q. While the Lieut. Colonel was at the Fire, what was he doing?

A. Disturbing the Men.

Q. How?—A. By beating us from the Fire.

Q. Was the Officer of the Guard in his Tent, or did the Lieut. Colonel enquire for him?—A. I did not hear him enquired for.

Q. Who was the Serjeant of the Guard that Night?—A. Serjeant Walton.

Court. Q. Did the Colonel drive you from the Fire?—A. Yes.

Q. Did he drive you away more than once?—A. Two or three Times.

Prisoner. Q. Was Lieut. Colonel Ward drunk?—A. Yes.

Q. Did the Colonel order the Fire to be put out?—A. Not at all.

Court. Q. Did Lieut. Colonel Ward say the Guard had been stealing Wood?

A. He did say they had been stealing Wood.

Prisoner. Q. Was the Wood burning, the Forage Wood?—A. Yes.

Q. Did the Colonel complain to the Officer or Serjeant of that Guard?

A. To neither.

Q. Did the Serjeant assist the Colonel in driving you from the Fire?—A. No.

Court. Q. Had you any Consultation with Captain Aveling privately, before your coming here?—A. No.

Serjeant BRODERICK, of the Camb. sworn.

Prisoner. Q. Did you ever see Lieut. Colonel Ward drunk when under Arms at Exercise in Brigade?—A. Yes.

Q. How did he behave that Day you saw him so in Brigade?

A. He gave the Word Berkshire instead of Cambridgeshire, and damned them all, and said he wished the French were firing Balls at them.

Court. Q. Did the Officers express any Dissatisfaction that Day, at the Conduct of your Colonel?—A. I did not observe it.

Q. Had you any other Reasons for believing Colonel Ward drunk?—A. No.

Q. Was

Q. Was the Regiment that Day in any Confusion?—A. Not at all.

Q. Did Lieut. Colonel Ward, Manouvre the Regiment that Day?

A. He took it from the Right, the Whole of the Day.

Q. Do you remember the General of your Brigade that Day?

A. General Faucitt, I believe.

Q. Did you hear General Faucitt call that Day to Colonel Ward, on his conducting the Regiment?—A. No.

Prisoner. Q. Did you ever see Lieut. Colonel Ward drunk, or noisy, in the Streets of your Camp?—A. Yes.

Q. How?—A. I have seen him come out, without Coat or Waistcoat, and beat the Men's Tents about.

Q. Was there Noise in the Streets before?—A. None.

Q. What followed, after he disturbed the Men?

A. He came swearing up and down the Streets, beating the Tents about.

Q. Was there any Word passed amongst the Men, and what was it?

A. The Men passed the Word, for the drunken Colonel, after he had been beating the * Beds an Hour.

Q. What Hour was this?—A. Between Eleven and Twelve.

Q. Did the Lieut. Colonel often take the Command of the Regiment, when the late Major was present?—A. No, not often.

Court. Q. Has not Colonel Ward often commanded the Regiment, to the Satisfaction of the General reviewing?—A. I do not know that, at all.

Q. Was you ever present at a Review of your Regiment?

A. I have, more than once.

Q. Did Colonel Ward Command it?—A. Yes.

Q. Did the reviewing General ever give you any Applause?—A. Never.

Prisoner. Q. Have you not heard that Lieut. Colonel Ward gave up the Command of the Regiment to the late Major, at Hampstead?—A. I have.

Q. From whom?—A. From Colonel Ward.

Q. On what Account, and in what Instance, did he give up the Command?

A. By a Man's Application for a Leave of Absence, and the Colonel's referring him to the Major, saying, he had nothing to do with it, he gave up the Command of the Whole to the Major.

ROBERT JARVIS, Serjeant Major, duly sworn.

Prisoner. Q. Did you ever see Lieut. Colonel Ward drunk, when the Regiment was at Exercise?—A. I have, in Brigade.

Q. How did he behave that Morning?

A. I heard him give the Word Berks instead of Cambridge.

Q. Did you hear any Thing else?—A. No.

Court. Q. Who commanded the Brigade?—A. I believe General St. John.

Q. Did you hear General St. John find any Fault that Day with your Regiment?

A. No.

Q. Had you any other Reasons for thinking Colonel Ward drunk?

A. I saw he was drunk when he first came on the Parade.

Q. Did Lieut. Colonel Ward command the whole Day?—A. Yes.

Q. Was there any Confusion or Disorder in the Manouvering the Regiment that Day?—A. I do not recollect there was.

Prisoner. Q. Did you ever see Colonel Ward drunk on Picquet?—A. Yes.

Q. Did you ever go the Rounds with him?—A. I have.

Court. Q. How came you, as Serjeant Major, to go the Rounds?

A. By Colonel Ward's Order.

Prisoner. Q. Was Colonel Ward ever drunk at those Times?

A. Yes, I have seen him drunk.

Court. Q. What were the drunken Appearances?

A. By beating Drummer Preston.

Q. Any other Time?—A. I do not remember.

Court. Q. Why did he beat the Drummer Preston?

A. Because he was not alert in turning out, but kept Colonel Ward waiting five or six Minutes.

Q. Had you any other Reason for thinking him drunk, than his beating the Drummer?—A. By his walking.

Q. Was it a dark Night?—A. Not very dark.

Q. What is the general Behaviour of your Men, as to Quietness in their Tents at Night?—A. Sometimes they will talk, but not to disturb.

Q. Have not you frequently seen Col. Ward exercise the Regiment without Confusion?—A. I have seen him more than once exercise the Regiment without Confusion.

Prisoner. Q. Have not you frequently seen the Regiment in Confusion when exercised by Lieut. Colonel Ward?—A. I have.

Court. Q. What was the Cause of that Confusion?

A. Sometimes caused by the Officers commanding Divisions, and sometimes by the Colonel.

Prisoner. Q. Had the Serjeant of the Picquet called Drummer Preston that Night the Colonel beat him?—A. I do not believe he had.

Court. Q. Was not Lieut. Colonel Ward detained in the Streets five or six Minutes, by the Drummer not coming.—A. Yes.

Prisoner. Q. Did the Colonel tell the Drummer that was his Reason for beating him?—A. No.

Lieut. Colonel W. Q. Did not General Faucitt order Serjeants from the Royal Irish, and desired the Drill might be entirely under their Command?

A. There were two Serjeants and two Corporals from the Royal Irish, to assist your Drill, but I know nothing of the Drill being under their Command.

Q. Did you ever express yourself dissatisfied with me on that Account?

A. Never with you, Sir, on that Account; but I was dissatisfied at the Royal Irish coming, as I knew better myself.

Q. Did you never hear General Faucett express his Surprise at the Regiment's not advancing in Discipline before the Royal Irish came?—A. Never in my Life.

Prisoner. Q. Did the Colonel often take the Command of the Battalion at Exercise, when the late Major was present.

A. When we lay at Hampsted, I saw Lieut. Colonel Ward take the Command of the Regiment at Exercise, but only that once, and the Major was not in the Field.

Q. Was there much done that Morning?—A. I really forget.

Court. Q. Who ordered the Regiment out that Morning.

A. I cannot tell, because we paraded every Morning for Exercise.

Prisoner. Q. Was not the general Order for Exercise, issued before the Colonel joined at Hampsted.—A. I do not remember.

Court. Q. Was there any Order issued by Col. Ward when at Hampsted?

A. I do not know.

Q. In your Orders, is not mention made by whom they are given?

A. Orders by Commanding Officer.

Q. Did you understand the Order given for parading every Day for Exercise, to be Major Cotton's?—A. I believe so.

Q. When did the Regiment go to Hampsted?—A. In June, on the 8th of June.

Q. When did we leave Hampsted.—A. In the Beginning of August.

Lieut. Colonel W. Q. Did you not see me Exercise the Battalion, when reviewed by General Ward, at Yarmouth?—A. I did.

Q. Did not Major Cotton come to the Regiment, and give the General's thanks to the Officers, and Men, for their Behaviour that Day?

A. I remember Thanks were given.

Q. Have not you always seen me exercise the Regiment when in Review or Brigade?—A. I have.

LIEUT.

LIEUT. TETSALL, of the Camb. Militia, duly sworn.

Prisoner. Q. Did the Colonel often exercise the Regiment, when Major Cotton was in the Field, on general Field Days?----A. At Hampsted, once.

Court. Q. Was the Major that Day in the Field?

A. I do not remember he was.

Q. Did you hear Major Stevenson, when Captain, say, he wished to give his Company for the Captain Lieutenancy, as the Company was more trouble than he liked, or was equal to?----A. Yes, at the New River-frame.

Q. Have you often seen Major Stevenson, when Captain, in Confusion and Disorder, commanding a Division in Battalion?----A. Frequently so.

Q. Was you on the Parade at Hampsted, when the Order came for a Detachment to march to New River-frame, in the Time of the Riots?----A. I was.

Q. Did you see Captain Stevenson before the Order came?---A. Yes, I did.

Q. How did he appear?-----A. He appeared as usual.

Q. Did you see him after the Order came, and how did he appear?

A. He fell into a Fit.

Q. What did you apprehend the Cause?

A. I believe he was rather fearful of taking the Detachment.

Q. What sort of a Fit was it?-----A. A fainting Fit.

Court. Q. Have not you seen Privates in the Ranks, fall down in Fits?

A. Yes.

Q. Did you apprehend those Men fell through Fear?

A. Some by Fear, some by Faintness.

Prisoner. Q. Did not a Dragoon bring the Order for a Detachment?----A. Yes.

Q. Did not Major Cotton say, Captain Stevenson was for that Duty?

A. Yes.

Q. Did not you see Captain Stevenson in the Situation described, after being told by Major Cotton, he was for that Duty?----A. Yes, it was after.

Q. Did you go with the Detachment?----A. Yes.

Q. Did Captain Stevenson go the most expeditious Way?

A. We went that Way we could find, we did not know the Road.

Q. How far was it from Hampstead to the New River-frame?

A. About nine Miles.

Q. How long were you going from Hampstead to the Frame?

A. About six Hours.

Q. Did Captain Stevenson seem alarmed on the March?

A. He seemed a little Matter alarmed at Kingland Turnpike.

Court. Did Captain Stevenson perform the Duty he was sent upon, with that Detachment?----A. He desired me to relieve the Guard.

Q. Was it not a Subaltern's Guard you relieved?----A. Yes.

Q. After the Relief, did he stay with the Guard?----A. Yes.

Prisoner. Q. Did Captain Stevenson give for Reason, when he desired you to relieve the Guard, that he might recover?

A. I do not remember such Words.

Q. Did he ask you to relieve the Guard before he got to the Frame?

A. Yes, at about a hundred Yards Distance.

Q. Did you know then what the Detachment you were to relieve consisted of?

A. We did not.

Q. Did Captain Stevenson, at Kingland Turnpike, desire you to take the Command 'till he recovered?-----A. Yes.

Q. Did Captain Stephenson ride all the Way?-----A. He did.

Q. Did you ever see Major Stephenson in the Field, or on Parade, from the Date of his Majority, in November last, 'till April?---A. Not 'till the 7th of April.

Court. Q. During that Time, was you always on Parade and in the Field?

A. Always from the 14th of February to the 7th of April.

Q. How long was you absent from Quarters?

A. From the 1st of January to the 14th of February.

Q. Did you constantly attend Parade, from the 24th of October, your going to Hockerill, to the 1st of January?—A. Yes.

Lieut. Colonel W. Q. What was the Strength of the Parade at Hockerill and Stortford?

A. The Colonel's whole Company and Grenadiers, except twenty-six.

Q. How many Men from each Company had Furloughs?—A. Twenty.

Prisoner. Q. Was Hockerill Head-Quarters?—A. Yes.

Q. Were the Companies near compleat when you returned?

A. Very few out on Furlough.

Q. When did the Major give the Word as Major first?—A. On the 4th of June.

Q. On what Occasion?—A. On the March to Hodsdon.

Q. In what Order did the Men march off the Parade that Day?

A. Quite disorderly.

Q. What was the Cause?—A. Why I believe Half of them were drunk.

Q. How did Major Stevenson give the Word that Morning?

A. Why, as they were in Files, he ordered them to form two deep, and they half of them shoved one another down.

Lieut. Colonel W. Q. Was Captain Stevenson on the Parade, on the Arrival of Lord Amherst's Order for the Detachment?—A. Yes, he was.

Q. Was Captain Littell on the Parade?—A. No.

Q. Did you know Captain Stevenson had been ill before the Arrival of Lord Amherst's Order?—A. I had heard that he was ill.

Q. Did you not know, that Major Stevenson was ill in his Quarters, at the Time of the Arrival of the Order from Lord Amherst?

A. I did not know he was in his Quarters.

LIEUT. R O O K, of the Camb. Militia, sworn.

Prisoner. * Q. Was Capt. Stevenson, Commanding Officer at Barnet, of the 2d Division, on the March to Tiptree Camp?—A. Yes.

Q. Did there come an Order Express, for the Regiment to March to Cane Wood, and other Places?—A. There did.

Q. Were not all the Officers, except Captain Stevenson, taking a Walk, when the Express arrived?—A. Yes.

Q. When we returned, and you first saw him, how did he appear?

A. He appeared rather alarmed.

Q. Did he appear frightened?—A. He appeared rather flurried.

Q. Had he answered the War-Office Order?—A. No, then he had not.

Q. How long had the Express arrived, before our return?

A. Half an Hour, or more.

Q. As soon as I saw him, did I not tell him, the War-Office Order should be immediately answered, and requested him to do it?—A. Yes.

Q. Was I second in Command?—A. Yes.

Q. Did Captain Stevenson, answer the War-Office Order?

A. No, but you did.

Q. Did he desire me to do it?—A. Yes.

Q. After I had wrote the Letter, did I ask him to sign it?—A. Yes.

Q. Did he sign it?—A. No.

Q. Did he desire me to sign his Name for him?—A. Yes.

Q. Did I not object to signing his Name, without he would particularly desire me to do so before the Officers?—A. Yes.

Q. Did he desire I would sign his Name for him?—A. Yes.

Q. What Reason did he give for desiring me?

A. He said, his Hand shook, he could not.

Q. All this Time, how did he appear?

A. Rather flurried, as I said before.

* Read Prisoner, Capt. A.

Q. When we arrived at Highgate, how long did he keep the Men on Parade, before he sent a Party off for Cane Wood?----A. I believe, an Hour.

Q. What Hour of the Night was it at Highgate?---A. About Twelve.

Q. What was he doing?

A. Giving Instructions for dividing the Men to their several Quarters.

Q. Was there any apparent Confusion or Disorder in his Manner?

A. I believe rather confused.

Q. Did you observe any other Officer confused?---A. Not that I remember.

Court. Q. Did Captain Stevenson then appear to be ill, or had you heard he was ill?---A. I did not see he was ill, or heard of it.

Prisoner. Q. When Captain Stevenson called at Lord Mansfield's, on his March to the Frame, how did he appear?---A. He appeared to me to be ill.

Q. Did you say any Thing to him.--A. I asked him if he was ill.

Q. What Answer did he make?

A. He sighed, said O Lord, and no other Answer gave.

Court. Q. Did you apprehend the Service you were going upon desperate and dangerous?---A. Not at all.

Q. Did Captain Stevenson do his Duty on that Service?

A. As far as I know he did.

Prisoner. Q. Did you go with Captain Stevenson on the first Detachment?

A. No.

The COURT stands adjourned till To-morrow, Eleven o'Clock.

W E D N E S D A Y, July 25th.

The COURT met pursuant to Adjournment.

LIEUT. ROOK called before the Court, duly sworn.

Prisoner. Q. What did you then think of Captain Stevenson, when he sighed, and said O Lord, and nothing else?---A. I do believe he was rather frightened.

Q. Were there not two or three Regiments marched thro' Barnet the Day we were there?----A. Yes, there were.

Q. Had not they made forced Marches?----A. I believe so.

Q. Were they not all to be encamped that Night in or near London?

A. They expected it.

Q. Did any of the Officers say they marched all Night?----A. Yes.

Q. Did you hear from the Officers of the Regiments they were to be in London that Night?----A. Yes.

Q. Do you think from those forced Marches, there were not Appearances of something to do against the Mob?----A. Yes, I think there were.

Court. Q. Was your Regiment marching in two Divisions at this Time, and how far from you?----A. In two Divisions, the other ten or twelve Miles off.

Q. Were either of the Field Officers with the other Division?

A. I do not know.

Lieut. Colonel W. Q. When you attributed this Appearance in Capt. Stevenson to Fear, did you or any of the Officers slight him on that Occasion?

A. I never did, nor did any other Person as I know of.

Q. How then could you, as an Officer and a Man of Honour, sit at Table with him, who had disgraced the Character of an Officer and a Man of Honour, until he had vindicated his Character?

I

A. Certainly

A. Certainly, as a Subaltern Officer, and as others did not take Notice of it, I thought I had no Right.

Q. Did you tell your Opinion at the Time it happened, to any other Officer?

A. Captain Aveling asked me, If I thought he seemed afraid; I said, I did.

Q. Did Captain Aveling continue to Mess and Parade with Captain Stevenson, after you gave him it as your Opinion he was afraid?

A. They have messed and paraded together, and I never heard of any Differences between them.

Lieut. Colonel W. Q. Did not you know of Captain Stevenson's Illness, on Sunday Morning, at Hampsted, when Lord Amherst's Order came, and he insisted on going upon the Command?

A. I never heard of it, till after Captain Stevenson left Lord Mansfield's.

Q. Did you hear of it then?—A. I did.

Q. Will you take upon you to say, positively, that the Appearances you mentioned might not proceed from Illness?—A. I do not know.

Q. Might they not?—A. I do not know they did.

Prisoner. Q. Do you think you would have been authorized, to have shewn any public Resentment against your Commanding Officer, for Circumstances whereof you had only presumptive Proofs?

A. I should think I had no Authority for it.

Q. Did you understand, when you heard Captain Stevenson was ill, that he was sick in Quarters, or that he was taken ill at the Head of the Regiment?

A. I heard say, he was taken ill at the Head of the Regiment.

Lieut. Colonel W. Q. Was that Illness before, or after Lord Amherst's Order came?—A. I cannot tell, I was not there when the Order came.

Prisoner, Captain A. Was I in Company with Captain Stevenson for some Months after this happened?

A. I believe not, because you could not, because you was confined.

Court. Q. Did Captain Littell keep Company with Captain Stevenson, from that Time to this?—A. Yes.

Q. From Captain Aveling's Release from Confinement at Tiptree Camp, till he was in Arrest here, did he keep Company with Major Stevenson?

A. I believe he did.

Q. Can you point out the last Time that Captains Aveling and Littell, dined and paraded with Major Stevenson?

A. I believe, they dined together at Tiptree, I have seen them at Mess.

Lieut. Colonel W. Q. Do you remember Captains Aveling and Littell, dining in the Mess Tent at Tiptree, with Captain Stevenson, after Major Cotton left the Mess, when all the Officers were asked to be present?

A. I believe they both dined there after Major Cotton left the Mess.

Q. Did not all the Officers mess at Tiptree?

A. Yes, except Captain Aveling, who did, after his Release.

Prisoner, Captain A. Q. Did not I refuse an Invitation from Major Stevenson, on the 1st of January, to dine with him at Head-Quarters?

A. You did not go to dine I believe.

Lieut. Colonel W. Q. Was not that after he was appointed Major?

A. I believe it was.

Q. Was the Note of Invitation from Captain or Major?

A. From Major Stevenson.

Prisoner, Captain A. Q. Did you ever hear, I kept Major Stevenson's Company, except at the Mess, or on the Duty of the Regiment, or once by Chance meeting him at Captain Wortham's?—A. I never heard you did.

Prisoner, Captain L. Q. Do you know when I first heard of the Circumstances you have related of the Major?—A. I do not know.

Q. Do you know how many Officers were at the Dinner, on the 1st of January?—A. I was not there.

Q. Were any Officers there?—A. I heard there were.

THOMAS PRESTON, Drummer, Camb. Militia, duly sworn.

Prisoner. Q. Were you with the Regiment when the Order came for the Detachment to the Frame?—A. I was.

Q. Who brought that Order?—A. A Dragoon.

Q. Did you see Captain Stevenson before the Order came?—A. I did.

Q. How did he appear?—A. Very well then.

Q. After the Order came, what Change did you see?

A. He seemed like a Man fainting.

Q. How was he, and what happened?

A. Like a Man fainting; he laid his Arm on my Shoulder, and his Head on his own Arm.

Q. What did you think the Cause of that sudden Illness?

A. Why because he was frightened, I believe.

Serjeant BRODERICK, Camb. Militia, duly sworn.

Prisoner. Q. Was you with the Regiment at Hampsted when the Order came for the Detachment to go to the New River Frame?—A. Yes.

Q. Who brought that Order?—A. A heavy Dragoon.

Q. Who was the commanding Officer at Hampsted?—A. Major Cotton.

Q. Did you see Captain Stevenson immediately before the Order came?—A. Yes.

Q. How did he appear?—A. To be very well.

Q. Was the Regiment marched off the Parade when the Order came?—A. No.

Q. Did you hear Captain Stevenson was ill before the Order came?—A. No.

Q. Was he marching with the Regiment?—A. Yes.

Q. Was the Regiment halted and returned to Parade?—A. Yes.

Q. How did Captain Stevenson then appear?—A. He was taken very ill.

Q. What do you think was the Cause of his Illness?—A. Being frightened.

Court. Q. Did you ever practise Physick*?—A. No.

Q. As you never practised Physick, how could you judge of the Cause of Capt. Stevenson's Illness?—A. By his being taken so suddenly.

Q. What did Major Cotton say to Captain Stevenson?

A. Begged of him not to go, and told him he was not fit to command the Party.

Court. Q. How near were you to Major Cotton and Captain Stevenson?

A. About five or six Yards Distance.

Q. Did Major Cotton speak loud?—A. Yes.

Q. † Was he not very angry with Capt. Stevenson's going with the Detachment?

A. Yes.

Q. Did he repeatedly tell him he was not fit to be trusted?

A. I do not remember the Word trust at all, he said he was not fit to take it.

Q. Was another Officer ordered for that Duty?—A. Yes.

Court. Q. Did another Officer take the Duty?—A. No.

Lieut. Colonel W. Q. Was Captain Stevenson with the Regiment when the Order came?—A. Yes.

Q. Did you see the Order come, and at the same Time see Captain Stevenson?

A. I did

Captain Lieut. HENRY HALL, Camb. Militia, duly sworn

Prisoner. Q. Was you with the second Division on the March to Tip-tree Camp?

A. I was.

Q. Who commanded the Division?—A. Captain Stevenson.

Q. Did there come an Order from the War-Office, for the Regiment to march directly to Cane Wood and other Places?—A. There did.

* This and the following Question were asked by Captain Wren of the Warwick.

† Read Q. by Prisoner.

Q. Were not all the Officers walked out when the Order came, except Captain Stevenson?—A. Yes.

Q. How long did you understand the Order had arrived, before we returned?

A. I never heard how long.

Q. Had Captain Stevenson returned an Answer to the War Office?—A. No.

Q. As soon as I saw him, did I not tell him the War Office Order should be acknowledged directly, and did I not advise him to do it?—A. Yes.

Q. Did he answer it, or ask me to do it?

A. Asked you to do it.

Q. After it was wrote, did I ask him to sign it, and did he sign it?

A. You asked him to sign it, but he did not.

Q. Did he ask me to sign his Name for him?—A. He did.

Q. Did I not object to it, unless asked before the Officers?—A. Yes.

Q. Did I sign his Name at his particular Request?—A. Yes.

Q. What Reason did he give for desiring me to write the Letter, and sign his Name?—A. I do not remember.

Q. Was Capt. Stevenson well at the Time?—A. I believe he was.

Q. What do you think was the Reason for Captain Stevenson's desiring me to write and sign his Name?—A. I do not know.

Q. Did Captain Stevenson appear flurried?—A. I do not know.

Q. Did you see Captain Stevenson at the Time he desired me to write the Letter, and sign it?—A. I did.

Q. Did you look at him, or take particular Notice?

A. I did not take particular Notice of him.

Q. Have you ever given your Opinion in Public of Captain Stevenson's Conduct at that Time?—A. Never.

Prisoner, Captain L. Q. Was Captain Stevenson in the Room, while the Letter was writing and signing?—A. He was.

Q. Was Captain Stevenson at all engaged at that Time?

A. Not that I know of.

Q. Did it not appear strange, that Captain Stevenson should in that Case desire another Officer, both to write and sign a Letter for him?

A. I do not look upon it any Thing extraordinary, any Body else might have done so.

Court. Q. Did you ever know an Instance in which Captain Stevenson behaved unlike an Officer, or a Gentleman?—A. Never.

Prisoner, Capt. A. Q. Was it the first Instance that ever came to your Knowledge?—A. It was not, or I should not have given that Answer.

Q. Were there not two or three Regiments passing through Barnet the Day we were there?—A. There were.

Q. Did not you understand they had all made forced Marches?—A. I did.

Q. Were they not all to be encamped that Night in or near London?

A. They were.

Q. Did not you think from those forced Marches, there would be something to do against the Mob?—A. I did.

Q. Was you present at a Fracas that happened between Captain Stevenson and Ensign Tuting?—A. I was.

Q. Who were present at St. Alban's when the Fracas happened?

A. Lieut. Colonel Ward, Captain Stevenson, Lieutenant Jennings, and myself.

Court. Q. Please to relate what happened between Captain Stevenson and Ensign Tuting that Night?

A. It was a jovial Evening, Lieut. Jennings and I had lately joined the Regiment, and were wetting our Commissions; how this Fracas began I do not know, but in the Fracas Captain Stevenson was thrown down.

Q. Did you ever know any Officer of the Regiment shun Captain Stevenson on Account of that Scuffle?—A. I do not know any one that did.

Q. Did you ever hear Ensign Tuting had made an Apology, for what happened that Night to Captain Stevenson?—A. I have.

Prisoner,

Prisoner. Q. Did you hear him make the Apology?

A. I did not, but I heard the Apology was made before Colonel Ward.

Court. Q. Did you look upon it as a serious Affair, or what might happen to any Person in the same Predicament?

A. I looked upon it, to have been the Effect of Liquor.

Q. Were there not opprobrious Names used on this Occasion?

A. Not that I know of.

Q. Were there any Threats used by Ensign Tuting?—A. No.

Q. Was Captain Stevenson's Neckcloth torn from his Neck?

A. It was in the Scuffle.

Q. From whom did you hear that an Apology was made?

A. I have heard Lieut. Jennings say so.

Q. Were the Commissions wetted that Day, prior to the Scuffle?

A. Prior to the Scuffle.

Court. Q. Did you dine and sup together that Day?

A. We did, and had been drinking all the Afternoon.

Q. Did you not always understand that Captain Stevenson and Mr. Tuting, lived together on the most amicable Terms, both before, and since this Affair?

A. I did.

Prisoner. Q. Did not both Parties cry on this Occasion?

A. Not that I know of.

Lieut. Col. W. Q. Upon the March from Hampstead, was there any Neglect of Duty on my Side?—A. No.

The COURT stands adjourned till To-morrow, July 26th, Eleven o'Clock.

THURSDAY, JULY 26.

The COURT met pursuant to Adjournment.

CAPT. LIEUT. HENRY HALL, called.

Prisoner. Q. Have you ever declared in or out of the Regiment, that Captain Stevenson was knocked down by Ensign Tuting?—A. Never.

Q. Have you never declared, that Captain Stevenson and Ensign Tuting lived together in such a scandalous Familiarity, that it was a Shame for a Gentleman to keep them Company?—A. Never.*

Q. At the Fracas at St. Alban's, was there any Money given on either Side, between Captain Stevenson and Ensign Tuting, and for what Purpose?

A. There was not.

Q. Was not Captain Stevenson's Fall occasioned by a Blow?—A. It was not.

Court. Q. Did you ever hear Captains Littell and Aveling avow similar Charges to be true, before Captain Stevenson was made Major, with those mentioned in the anonymous Letter?—A. I did not.

Prisoner, Captain L. Q. Did you ever hear me speak of those Charges at any Time?—A. Never.

* To this and the foregoing Question (and also to one that is left out in the Proceedings) the Prisoners desired to call Witnesses to confront this Witness, and to prove he had made the Declarations which the Questions were meant to bring out, and which he here so positively denied.

The Prisoners were refused by the Court to call such Witnesses, although they alledged, that on those Declarations (here denied by Mr. Hall) and similar ones made by Lieut. Jennings, who acknowledges the circulating such a Report, they in great Measure grounded their Opinions of the Indignities and Insults put upon Captain Stevenson, and which it does not appear he in any Shape repented.

Q. Have not you published the Fracas at St. Alban's, as being highly disgraceful to Captain Stevenson?—A. I have not.

Lieut. Colonel W. Q. Did you remember upon the Halt at Buntingford, on the 26th of October, at Mr. York's Park at Hammel's, what Captain Aveling said to Captain Stevenson?

A. That as Major Cotton was leaving the Regiment, there would be an End of all Courts Martial and Disagreements.

THOMAS SIMSON duly sworn.

Prisoner, Captain A. Q. Was you in the Room at the Angel, Yarmouth, when Major Cotton was in Arrest, and I went to carry the Charge against him?

A. Yes, I was.

Q. Do you remember what Major Cotton said against Lieut. Colonel Ward?

A. Perfectly.

Q. What was it?

A. Major Cotton said that Colonel Ward was a damned dirty shabby Fellow, and the greatest Liar upon Earth, and after swearing, the Major said, he would ruin him, were it not in Pity to his Family.

Q. In the Dispute between you and Major Cotton, did the Colonel take any Steps of Accommodation?—A. Never.

Q. Did he persuade you not to accept any Concessions from Major Cotton?

A. He did.

Q. Did he not once tell you, you would have more Overtures from Major Cotton, by Doctor Smith, and did he not advise you by all means not to listen to them, or accept any Proposal for Accommodation?—A. He did.

Q. Did he not tell you, if you would hold out three Hours longer, Major Cotton would be gone, and you would have your Liberty?—A. Yes.

Q. Was not the whole Tenor of Colonel Ward's Conduct, during your Confinement, encouraging you, and advising you, by no means to settle the Matter without a Court Martial?—A. It was. †

Q. Did Colonel Ward promise you, if you would not mention his Name before the Court Martial, he would be a favorable Evidence for you?—A. He did. ‡

Court. Q. What was the Consequence of your following his Advice?

A. I was suspended for drawing my Sword against my superior Officer, and challenging him.

Lieut. Col. W. Q. Did not Major Cotton make me a Concession, at the Head of the Regiment, for what he had ever done or said towards me?

A. He made me a Concession, but I do not remember on what Account; it may be so.

Q. Was it not read publicly in the Circle?

† This, and the Answers to the several preceding Questions, must convince the most superficial Observer, how contrary to the *proper* Conduct of the Commander of a Regiment it is, to endeavour to foment and continue Divisions and Disagreements among his Officers, which *more respectable* Commanding Officers, always endeavour to have (or indeed insist upon being) compromised and reconciled.

Had the Prisoners been permitted to have called the Evidences they were refused by the Court, they would have proved one or two more recent Instances where the commanding Officer of the Cambridge-shire Militia had declared with Pleasure, he was glad of every Division and Disagreement that happened in his Regiment; from which Conduct, it may not be difficult to determine, from what Source has arisen all the Dissentions and Court-Martials, that have so frequently disgraced the Body commanded by *such a* HEAD.

‡ This must clearly shew, that the Lieut. Colonel Commandant of this Regiment, was conscious of the Jesuitical Part he had acted in this Affair, by endeavouring to prevent a Reconciliation between those Officers, and to bring on a Court Martial; and for Fear the Court, and consequently the World, should be acquainted with his Conduct on that Occasion, he here *meanly* promises Mr. Simson, (then a Lieutenant in the Regiment) “if he will not mention his Name before the Court Martial, he will be a favourable Witness for him.”

We here drop further Comments, leave the impartial Publick in Possession of this Fact, and to entertain their own Sentiments of *such a Character*.

A. Captain

A. Captain Ward read it, but spoke in such a Manner, I did not hear a Third of it.

Q. Did not Captain Littell and Captain Aveling, upon Major Cotton's coming up to you at the Head of the Battalion, and calling you damned Villain and Scoundrel, or Words to that effect, turn out, and say they would not do Duty with you, till you had cleared yourself as a Gentleman, and a Man of Honor?

A. They never said so to me, but Colonel Ward told me so. §

Q. Did Major Cotton use those Words, you have got my Servant's Stockings, why do you not give them to me?—A. Never to me.

Q. Was you not in the Field, and stood there some Time, without saying a Word to Major Cotton, upon his calling you damned Villain and Scoundrel?

A. I came away immediately.

Prisoner. Q. Was not the whole Business founded upon the Person who washed for you, and Major Cotton having exchanged a Pair of Stockings?—A. It was.

Q. Did not you draw your Sword, and repeat the same Words to him, he had made use of to you, when Major Cotton affronted you at the Head of the Battalion?—A. I did.

Lieut. JOHN JENNINGS of the Camb. again sworn.

Prisoner. Q. Soon after you joined at St. Alban's, what happened between Captain Stevenson and Ensign Tuting?

A. Colonel Ward, Captain Stevenson, Mr. Tuting, and I, were spending the Day together, and about Twelve at Night, Captain Stevenson and Ensign Tuting had some Dispute, what upon, I do not know, but they were exceedingly Warm, and in the Quarrel, Mr. Tuting tripped up Captain Stevenson, after that, we insisted upon the Affair being settled, and they sat down again, and began drinking again, and we might stay till one or two in the Morning, then parted, and went to Bed without Animosity; we had drank two Guineas worth of Arrack Punch, and five Bottles of Port Wine; I believe we were all drunk.

Q. Did any abusive Language pass?—A. Not to my remembrance.

Q. Did Ensign Tuting tear the Neckcloth from Captain Stevenson's Neck, and throw it in the Fire?

A. It was torn, but I do not remember its being thrown in the Fire?

Q. Was it torn after the Fall, and by whom?

A. I think in the Fall, by Mr. Tuting.

Q. Did they both Cry on this Occasion?—A. Not on that Occasion.

Q. On any other?—A. They did not Cry at that Time.

Q. Was there another Dispute, and what was it?

A. Some Days after Captain Stevenson, Mr. Tuting, and I had dined together, and drank freely till Eleven or Twelve; about that Time, Mr. Tuting and Captain Stevenson had some Dispute, about what I do not remember, Mr. Tuting collared Captain Stevenson, and tore his Shirt in the Scuffle, I parted them, and insisted on their not quarrelling any more; Captain Stevenson said, I will never speak to you again as long as I live; Mr. Tuting said, I will give you a Guinea to return Twenty when you do. Captain Stevenson took it; I then insisted that they should not part till the Guinea was returned, and I said, I would give a Crown Bowl of Arrack Punch to finish the Business. They sat down, and the Guinea was returned, and the Punch brought and drank; Captain Stevenson cried, and if it is necessary to add, I cried; we finished the Punch, I was for another Bowl, but it was over-ruled, and we all went to Bed.

Q. Did Captain Stevenson in any Shape resent the Fall?

§ Here it appears that Captain Littell and Captain Aveling, were from the first always ready to keep up the Dignity and Decorum of the Service, when a proper Occasion required it; but with all due Deference to the Service they assert it, that however as Individuals, they despised Captain Stevenson for the Indignities he had put up with; they apprehend they were not of that sufficient Notoriety, to authorize them to take any publick or personal Steps against him.

A. I

A. I do not remember he did.

Q. Were there not on one of these Occasions, some Threats used by Mr. Tut-
ing?—A. I do not remember there were.

Q. Have not you spoke of this Business, as being derogatory to the Character
of Captain Stevenson?—A. Never to my Knowledge.

Q. Have you ever related this Matter?—A. I believe I have.

Q. Was you not at the Frame when a Fire happened near you, and Captain
Stevenson was with you?—A. I was.

Q. How did Captain Stevenson receive the News of the Fire?

A. He seemed much alarmed.

Q. Did he entreat you not to leave him, and did you leave him?

A. He did not intreat me not to leave him, he asked me what was best to be
done, and I said, if you will take one Part of the Men, I will take the other, and
go to each End of the Frame. I went with my Party, and I believe Captain Ste-
venson went with his.

Lieut. Colonel W. Q. Did not Captain Stevenson receive a Letter from Lord
Amherst on that Business, in which his Lordship said, Captain Stevenson judged
quite right?—A. Yes.

Q. Was any other Officer at the Frame with Captain Stevenson, at the Time of
the Fire?—A. No.

Q. Was not Mr. Lemoin, Ensign and Surgeon's Mate, gone to Visit a sick Per-
son at that Time?—A. He said he was going on that Business.

Q. Did you ever know Captain Stevenson, guilty of any Thing unbecoming the
Officer, or the Gentleman?—A. Never.*

JAMES FULLER, Private, in the Camb. Militia, duly sworn.

Q. Was Captain Littell ever relieved by Captain Stevenson, when you was Ser-
jeant in the Detachment at the Frame?

A. Yes, when I was Serjeant in Captain Littell's Detachment.

Q. In what Manner did Captain Stevenson form his Men?

A. In great Confusion, he did not know how to give the Salute to the old De-
tachment, or to form his Men.

JOHN CRANE, Serjeant in the Camb. Militia, sworn.

Prisoner. Q. Was you in Captain Littell's Detachment, when he relieved Capt.
Stevenson, and was you in Capt. Stevenson's when he relieved Capt. Littell at the
Frame?—A. Yes.

Q. How many Times?—A. Three.

Q. At these different Reliefs, how did Capt. Stevenson conduct his Detachment?

A. He seemed to be confused and flustered.

Q. Did he conduct his Detachment properly?

A. I cannot speak to the Propriety.

Q. Do you know when a Guard is properly relieved?—A. Yes.

Q. Were the Detachments under Captain Stevenson conducted in as good Order
as under other Officers?—A. No.

Q. Have you ever seen Captain Stevenson at a Loss in his Division at Exercise?

A. Yes.

Q. More than once?—A. Yes.

* Here this Witness declares, "that he never knew Captain Stevenson guilty of any Thing unbe-
coming the Officer or the Gentleman." Whereas he has declared upon Oath, that he has seen Capt.
Stevenson tripped up, have his Neckcloth torn, collared, and have his Shirt torn in a Scuffle, by an En-
sign in the Regiment, without Resentment; and also so much alarmed upon his Post, at the Appearance
of Duty, as not to know how to act without Advice, though he was commanding Officer of a Detachment.
How far such Insults passed over unnoticed, and upon Service the shewing Timidity (to give it no
harder a Name) are consistent with the Character of an Officer and a Gentleman, the Publick will
judge; and consequently of the high Notions of Honour possessed by this Witness.

Q. Have you frequently?—A. Yes.

Court. Q. Do you think Captain Stevenson knows his right Hand from his left?—A. Yes. §

ROBERT JARVIS, Serjeant-Major, sworn again.

Prisoner. Q. Was the Detachment * off the Parade towards Hampstead when the Order for a Detachment came?—A. It was.

Q. Was the Regiment halted and returned to the Parade?—A. It was.

Q. Was Captain Stevenson with the Regiment at the time it went off and returned to Parade?—A. He was.

Q. What did Major Cotton say to him on the Occasion?

A. He said he was not fit to take the Command.

Q. Was Major Cotton angry at his going?—A. I cannot tell.

Q. Did Major Cotton repeatedly say he was not fit to take the Command?

A. I heard him say so more than once or twice.

Q. Was there another Officer ordered for the Duty?—A. There was.

Q. Have you frequently seen Captain Stevenson in Disorder and Confusion, when commanding a Division in Battalion?—A. I have.

Court. Q. Have you not frequently seen him command a Division without Confusion?

A. I have seen him command a Division without Confusion, not frequently.

Q. Was you ever out of Quarters all last Winter?—A. No.

Q. Did you constantly attend Field and Parade?—A. I did.

Prisoner. Q. Did the Major ever attend Field or Parade before there was a Punishment, in April last?—A. Not that I remember.

Q. Did you usually carry the Book for Orders, and did he ever give any?

A. He never gave but one Order.

Court. Q. Was the Adjutant in Quarters then?

A. He was all the Winter in Quarters, excepting now and then a Day or two.

Q. How many Men were in Head-Quarters?

A. Near a Hundred, or about a Hundred.

Q. How long was it after the Punishment in April, before you saw the Major on Parade again?—A. I cannot tell how long it was.

Lieut. Colonel W. Q. Did not Major Cotton give a Reason, and what, for not being willing to let Captain Stevenson go on the Detachment?

A. I heard Major Cotton say, he was not fit.

Q. Did you hear any Reason given by Major Cotton?—A. I did not.

Q. Did you know, or hear that Captain Stevenson was ill at the Time.

A. I certainly did hear he was not very well.

Q. Do you continue to say, Captain Stevenson was in the Field with the Regiment, when Lord Amherst's Order for the Detachment to the Frame first came?

A. He was.

Prisoner, Capt. A. Q. Did you hear Captain Stevenson was ill before the Detachment was made up?—A. No.

Q. Was the Detachment made up before the Regiment marched off the first Time?—A. No.

Prisoner. Q. How many Men might be in Head-Quarters since Feb. last?

A. About a Hundred and Fifty.

BEN. BARBER, Serjeant, Camb. Militia, duly Sworn.

Prisoner. Q. Has not Major Stevenson, when he was Captain, asked for your Information, when commanding a Division in Battalion?—A. Yes.

Q. Have you frequently seen him at a loss in Battalion?—A. Yes.

§ This Question was asked by Lieut. Colonel Bacon, of the East Suffolk Militia.

* Read Regiment.

Q. From what Cause?—A. By being flustered.

Court. Q. Have not you known him Command a Division properly?

A. Yes.

The COURT stands adjourned till To-morrow Eleven o'Clock.

F R I D A Y, J U L Y 27.

The COURT met pursuant to Adjournment.

JOHN COTTON, Esq; duly sworn.*

Prisoner, Capt. L. Q. Was you commanding Officer of the Regiment, when it marched from St. Alban's for Tiptree Camp?—A. I was.

Q. Did the Regiment march in two Divisions?—A. Yes.

Q. Who commanded the second Division?—A. Capt. Stevenson.

Q. Where did the different Divisions halt the first Day?

A. Captain Stevenson with his went to Barnet, and the other Division to Waltham Cross, &c.

Q. Where did the first Division halt the second Day?

A. I marched, according to the Route, to Epping.

Q. Where should the second Division, according to the first Route, have halted the second Day?

A. One Company should have joined me at Epping, and two should have gone to Ongar.

Q. Did you hear any Thing of the second Division officially all that Day?

A. No, I did not.

Q. Did you hear any Thing at all of them, 'till you sent after them?

A. No, I did not.

Q. When did you receive the Route or Copy?

A. I sent my Servant from Epping to Barnet, to enquire why they did not come, the Answer was, they were gone to protect Lord Mansfield's House from a Mob; upon that I sent an Express, with a Letter to Captain Stevenson, or commanding Officer at Lord Mansfield's, requiring a Copy of the Route, also to inform me what Situation they were in. That Express returned about Two next Morning, with a Letter from Captain Aveling, without a Copy of the Route, informing me they had marched according to Order from Barnet, and that he was with a hundred Men at Lord Mansfield's, and that Captain Stevenson was at Hampstead with the rest, and wished us a good March to Tiptree. About Seven I received a Letter from Captain Stevenson, with the Copy of the Route, expressing much Concern he did not receive my Letter by Express, and that he was in Want of Ammunition, and had applied to the War-Office. I clearly saw that the Route was meant for the whole Regiment, but as I had sent to Lord Amherst, I waited the Return of that Express.

Prisoner, Capt. A. Q. What Day of the Week were we at Barnet, and what Day was the Route sent for?

A. On Thursday the March of the second Division was to Barnet.

Q. On what Day did you send for the Route?—A. On Friday.

Q. At what Time of the Day did you send to Lord Mansfield's?

A. About Three in the Afternoon, and the Man returned about Seven.

* This Witness was summoned by the Prosecutor, with the Intent to introduce him in their Rejoinders; but as the Prisoners took this Opportunity of asking him some Questions, the Prosecutor asked the Questions he thought necessary on the Cross-examination.

Q. Did not my Letter mention, I had forwarded the Route to Captain Stevenson, and desired him to send it to you?

A. I do not recollect, I was surprised I did not receive it.

Prisoner, Capt. L. Q. Did Captain Stevenson send a Copy of the Route, in consequence of your sending for it?—A. Yes.

Q. How many Days was the first Division by this Mistake flung behind the other?

A. There were two Days Difference, but Half a Day, was in consequence of waiting your return from Lord Amherst.

Q. Do you recollect Lord Hardwicke's giving a Hundred and Fifty Pounds to the Regiment?

A. Yes, I do, for Accoutrements and Expences that might be thought necessary.

Q. Do you recollect the Lieut. Colonel's asking the Captains to suffer him to take One Hundred Pounds of that Sum, and for what Purpose?

A. The Lieut. Colonel told me, that he had applied One Hundred Pounds towards Accoutrements, and the remaining Sum was left in the Agent's Hands.

Q. Had not the Lieut. Colonel procured the Accoutrements that the Men then had, Prior to Lord Hardwicke's Gift?

A. I am convinced it was Lord Hardwicke's Intention of applying Part of that Sum for the Accoutrements, but whether the Accoutrements or Gift came first, I do not know.

Q. Did not the Lieut. Colonel ask it in particular, for Money that he had before expended on that Account?—A. Not that I know of.

Q. How were the Men accoutred, notwithstanding this Allowance from Lord Hardwicke?

A. They had Buffs, the Belts were proper, the Pouches were not very good.

Prisoner, Capt. A. Q. Was you at the Meeting on that Account, and what Promise did the Lieut. Colonel make to the Captains, on being permitted to take that Hundred?—A. I neither recollect the Meeting or the Promise.

Prisoner, Capt. L. Q. How did Capt. Stevenson in general Conduct his Division in Battalion?

A. I have known him make some Errors, but always endeavoured, as far as I could perceive, to do his Duty.

Q. How did Captain Stevenson in general march off, and conduct his Guards?

A. He always conducted them very well, excepting the first Day, when there was a little Confusion, which I can explain; the Regiment was ordered to Parade at Nine on the Sunday after our Arrival at Hampstead, to have the Men billeted near together, and were kept waiting there till near three o'Clock; Capt. Stevenson, between two and three, was taken very ill with a Disorder that he is subject to; in Consequence of his being ill, I requested he would go to his Quarters, which he did, leaning on a Drummer; I had got with the Regiment a little way down the Hill, towards Hampstead Town, when an orderly Dragoon brought me an Order to send a Captain and fifty Men to the Frame-work. I halted the Men, and returned to the Hill, and ordered the Serjeant Major to parade the fifty Men for that Duty, and sent an Officer to Captain Littell, who was gone into the Town, to acquaint him, he was for that Duty, as Captain Stevenson was ill. A short Time after, Capt. Stevenson came to me, and insisted upon doing his Duty; I expostulated with him much about the Impropriety of his going, being scarcely recovered: He said he should soon be well, and strenuously urged his taking that Command, and should take it extremely ill if I refused it to him. I told him, it could not be out of any Disrespect to him that I had sent for Captain Littell, but merely on Account of his Health. He pressed me so much, that at last I consented to his going, provided Mr. Tuting would assure me it would not be prejudicial to his Health.

Prisoner, Capt. L. Q. Did not Captain Stevenson ask you when the Detachment was ready, what Words he should make Use of, or in what Manner he should march the Men from Parade?—A. Something passed about it.

Q. Did

Q. Did not you understand from what did pass, that he could not march the Men off without your Instructions ?

A. He asked me some Questions about it ; Captain Stevenson was not entirely recovered, therefore I think it was impossible for me to say whether he was fit or not.

Court. Q. Did you attribute the Questions put to you, to Inability in his Profession, or Illness, or any other Cause,

A. I attributed it partly to Illness and partly to want of Recollection.

Prisoner, Capt. A. Q. Was you at Chelmsford when the Regiment went to Tiptree ?—A. I was.

Lieut. Colonel W. Q. Do you know of any Misapplication on my Part of the Hundred Guineas given by Lord Hardwicke to the Regiment ?—A. No, I do not.

Q. Did I at any time so give up the entire Command of the Regiment to you, as not to act as Lieut. Colonel.

A. I never considered myself as commanding Officer when you was present.

Prisoner, Capt. L. Q. Do you know, or have you heard, the Purpose of the Meeting of the Captains, on Lord Hardwicke's having given 150l. to the Regiment, the Meeting called by the Lieut. Colonel ?

A. The Colonel mentioned to me the Meeting, and that the Hundred Pounds had been applied.

Q. What further Particulars did he mention about the Meeting ?

A. I do not remember *.

Q. Has not the Lieut. Colonel given up the Management of the Regiment to you when he was present.

A. I have often exercised the Regiment when the Lieut. Colonel was present, but always considered myself under his Command.

Lieut. Colonel W. Q. Did not Captain Stevenson send a Copy of the Route as soon as he received your Letter at Hampstead ?

A. As soon as possible, at the Time expressing Concern at any Delay.

Q. Can you say whose Fault it was, that the Express with your Letter for the Route, was not communicated to you ?

A. I attribute it to Capt. Aveling's not sending my Express to Capt. Stevenson, as the Letter was directed to Capt. Stephenson or commanding Officer.

Q. Did not Captain Stevenson say, in his Letter to you, that Mr. Lemoin was just returned from a sick Man, at Cane-Wood, and gave him your Letter ?

A. He did.

Q. Did not Captain Stevenson say, that Mr. Lemoin told him, the Letter had been some Hours at Cane-Wood ;

A. I remember some time, I cannot say for Hours.

Q. Was Captain Stevenson in the Field with the Regiment at Hampstead, when Lord Amherst's Order for the Detachment to the Frame first came ?

A. No, he was not, I can positively swear to it.

Prisoner, Capt. A. Q. Was not the second Division detained a Day and a Half, because Captain Stevenson did not send the Route ?

* The Prisoners did not intend, for an evident Reason, to remark at all on this Evidence, but as he did not know the Purport of this Meeting, and it must otherwise remain undiscovered, the Prisoners think it necessary to mention the Intent of it. The Meeting was summoned by the Lieut. Colonel upon a Present of 150 Guineas being made by Lord Hardwicke to be laid out for the good of the Regiment, at which the Prisoners and the Captains then in the Corps and in Camp were present. Lieut. Colonel Ward, at the Meeting, requested the Captains would permit him to make use of 100 of the 150 Guineas so given by Lord Hardwicke, towards the discharge of a Debt contracted by him, for Buff Accoutrements for the Use of the Men, more than a Year before, (and for which Government made an Allowance) and in return for the Favour of such Permission, he, Lieut. Colonel Ward, solemnly pledged his Honour to the Captains, that he would apply all the Emoluments arising from his Commission, (his Pay as Lieut. Colonel, and the Allowance of Non-Effectives only excepted) towards the Regimental Stock.—How Truly and Honourably he has discharged this Engagement is well known to the Regiment, and what future Confidence can be placed in the Honour of such a Man, must be left to the Publick to determine.

A. I attribute it to a Mistake Captain Stevenson made ; the Route was directed to the Commanding Officer, at Barnet, and Captain Stevenson imagined it referred to his Division only, and the other Officers were of the same Opinion.

† Q. Was not the War Office acquainted with Captain Stevenson's Mistake?

A. It was.

Q. Has the War Office taken any Notice of it?

A. None that I know of.

Capt. Litt. Q. § Does Captain Stevenson remember the Message I gave him from the War Office?

A. He recollects they complained, they did not know what was become of the first Division of the Camb. or of the Ammunition of the Regiment, but that Captain Littell had explained it, and they were satisfied.

Q. Did they not express the greatest Astonishment that any Officer could mistake such a Route?—A. You told me so.

Lieut. THOMAS COTTON of the Camb. Militia sworn.

Prisoner, Capt. L. Q. In Consequence of an Affront to the Officers of the Regiment, and Complaint being made to the Lieut. Colonel, did he take any Notice of it?

A. I do not know of a regular Complaint being made to the Lieut. Colonel, but only mentioned at Breakfast.

Q. Was Captain Stevenson then present, when the Affront was put?

A. I do not recollect.

Q. Did that not happen twice?—A. Yes.

Q. Were Captain Aveling and I present?—A. I do not remember.

Q. Who mentioned it to Colonel Ward, and how was it represented?

A. I mentioned it, in Conversation only, and not to to the Lieut. Colonel particularly.

The Evidence for and against finished.

The COURT stands adjourned to Monday, July the 30th.

M O N D A Y, J U L Y 30,

The COURT met pursuant to Adjournment.

N. B. The Prisoners desired to be put upon their Trials together, and to be looked upon as one in this Business*.

THE Court having considered the Evidence for and against the Prisoners, together with what they had to offer in their Defence, is of Opinion, that they are severally Guilty of having aspersed the Characters of Lieut. Colonel Ward, and
M Major

† Read Q. by Lieut. Colonel Ward.

§ Read Mr. Cotton.

* By the Insertion of this N. B. and particularly in this Place, contrary to all Precedent, as neither the Prisoners nor any other Person but the Members of the Court were present, it may appear, that the Court thought it necessary to shelter themselves under some Apology for passing the same Sentence in this Case on both the Prisoners; although their Conduct on the Trial, and their (private) Declarations by Petition to the King since, have utterly denied any such Requisition. They wish to submit it to the World, even if such a Request had been made, how far in Justice it could have been complied with. The Members of the Court were sitting there to form their Judgment, and if

Major Stevenson, their superior Officers, (as alledged in the Charge) in a Manner unbecoming the Character of Officers and Gentlemen; and doth therefore, in Virtue and Pursuance of the 23d Article of the 25th Section of the Articles of War, adjudge, that each of them, Captain Thomas Bridge Littell, and Captain Thomas Baxter Aveling, be cashiered †.

E U S T O N, President.

John Hunt, Dep. Judge Advocate.

A true C O P Y.

J. A. OLDHAM.

*Judge Advocate's Office,
24th Aug. 1781.*

if necessary to pass Sentence on the Prisoners, from Facts that came properly authenticated before them, and not from any partial Desire or Request that they themselves should make on the Occasion; it would be an Absurdity to suppose, that any Court would pay Attention to the Prisoners desiring, that if they acquitted one they would acquit both; and it would be both absurd and cruel to imagine, that a contrary Requisition would be complied with.

† Notwithstanding the Prisoners concluded they had sufficiently proved, that all they had to charge themselves with in this Business, was, the giving an Opinion privately, and daring to repeat it publicly when called upon by the Persons it concerned; and although they imagined they had given sufficient Reasons by Evidence on Oath for such an Opinion, and were prevented by the Court from calling more Witnesses to prove further Grounds for their Opinions, they here find a most extraordinary and severe Censure passed upon them; so much so, that various Causes have been looked for, which could possibly have produced so harsh a Sentence; among which it has been suggested, that as there might appear from these Proceedings sufficient Grounds for other Enquiries of a judicial Nature in the Regiment on other Persons, the Court might possibly conclude, that the first End put to it would be the best, and that a Removal of the Prisoners would effect it.

TO THE
KING'S MOST EXCELLENT MAJESTY.

The Humble Petition of THOMAS BRIDGE LITTELL, and THOMAS BAXTER
AVELING, Esqrs; late Captains in your Majesty's Regiment of Militia for the
County of Cambridge,

Sheweth,

THAT your Petitioners, on the 23d of May, 1778, were appointed to the Command of Companies in the Cambridgeshire Militia, and so continued; and, as they apprehend, at all Times demeaned themselves, in their respective Stations, becoming the Characters of Officers and Gentlemen.

That in the Month of April last, an anonymous Letter, reflecting on the Characters of Lieutenant Colonel Thomas Watson Ward, and Major William Stevenson, both of the said Regiment, was sent to the Right Honourable the Earl of Hardwicke, your Majesty's Lord Lieutenant for the said County.

That a Copy of such anonymous Letter being sent by his Lordship to the Agent of the Regiment, was shewn by him to your Petitioners on the 15th of May last, long after it had been known in the Regiment (by a Letter sent by his Lordship's Directions on the 27th of April to the Adjutant) that such Letter had been received by the Lord Lieutenant, and of which no Copy had theretofore been sent; when your Petitioners, being asked their Opinion by the Agent, expressed to him in a friendly confidential Manner, their Belief of the Contents.

That the Lord Lieutenant, from the Intimation of the Agent, of such Conversation having passed between him and your Petitioners, apprehending that such Letter would be avowed by your Petitioners, sent Copies thereof to the Lieutenant Colonel and Major, and also to the Adjutant, to be shewn in the Regiment; and at the same Time hinted, that such Letter would be avowed, and by whom.

That your Petitioners, in Consequence, were, on the 24th of May, summoned to attend at Head Quarters; and (in the Presence of the Adjutant only) the Lieutenant-Colonel and Major produced the Copy of the anonymous Letter, and asked your Petitioners to avow it; which your Petitioners, with Resentment at the Question, refused, as your Petitioners considered such a Requisition as an Insult on their Honour, and spurned at the Idea of being supposed (what they really were not) Promulgators of Sentiments (however well founded) conveyed through the Medium of an anonymous Letter.

That the Field Officers then summoned your Petitioners, together with all the Officers of the Regiment, to meet at Head Quarters at Hockerill, on the 2d of June last; and at such Meeting, the Lieutenant-Colonel (after reading the Letter) asked two or three several Times "if any one would avow it;" to which Question all were silent, till a pointed Observation or Question was made or put by the Lieutenant-Colonel, that two Officers had avowed it, (mentioning the Names of your Petitioners) upon which your Petitioners denied having, in any Manner, avowed the Letter, but acknowledged their having given their Opinion upon the Copy of it, when shewn them by the Agent; whereupon your Petitioner Thomas Bridge Litte'l, being asked by the Lieutenant-Colonel to repeat his Opinion, said, "he believed the Contents to be true as far as came within his Knowledge;" and your Petitioner, Thomas Baxter Aveling, on the same Question being put, answered, "You know my Opinion."

That the Lieutenant-Colonel immediately put your Petitioners under Arrest, in which they continued from the 2d of June, till the 18th of July, (contrary to their Wish and Desire;) when they were put upon their Trial.

That the Charge given in against your Petitioners, was upon two Grounds.
1st, For behaving unbecoming the Characters of Officers and Gentlemen, and contrary to good Order and military Discipline, by aspersing the Characters of the Lieutenant-Colonel and Major, their superior Officers, by declaring before the Agent, in the Conversation before-mentioned, that they intended to avow the Charge of the said anonymous Letter. And

2dly, By declaring before several of the Officers of the Corps, on the 2d of June, at Hockerill, that they believed the Contents of the said anonymous Letter to be true.

That the Charges against the Field Officers comprized, in the said anonymous Letter, in respect of the Lieutenant-Colonel, were not specific, but in general Terms, as to his Ignorance

norance and Incapacity to keep up the Dignity of his Rank, and proper Subordination in the Corps, but by his general bad Example, causing Discontent and Disorder throughout the whole Regiment; which your Petitioners humbly submit was fully proved by Evidence on the Trial; and the Charge, in respect of the Major, was confined principally to his general Incapacity as second in Command of a Regiment, but specific in respect of Cowardice in a Case mentioned, which, upon the Trial, was extended further to his Conduct in his Regimental Station, three several Times when upon Duty during the late Riots, as well as at one other Time in his private Situation.

That upon the Trial, the Evidence produced in Support of the first Part of the Charge, which in any Degree affected your Petitioners, was, that of the Agent to the Regiment, who, in his Account of the Conversation which passed between him and your Petitioners, has not made any positive Assertion, but merely given it as his Opinion, that your Petitioners meant to avow the Contents of the Letter.

That in Support of the second Part of the Charge, some of the Officers of the Regiment, who were present at the second Meeting at Hockerill, were produced, who vary in their Accounts of the express Words used by your Petitioners; but your Petitioners humbly represent, that the only two Officers who did take Minutes of the Proceedings at such Meeting, declare positively, that the Lieutenant-Colonel asked the Opinions of your Petitioners before they gave it.

That, upon the Trial, your Petitioners were advised to go into Evidence to support that Opinion which they had formed of the Field Officers. And that Evidence they apprehend supported it, (although they were prevented by the Court from bringing the whole Evidence they could have produced in Support of their Opinions) but the Court-Martial were pleased to think them guilty of the Charge, and to pass a most severe Sentence, thereby stigmatizing them with a Character, which, of all others, in a military Light, is the most odious, and in a civil Light, the most contemptible; and not only bringing upon them your Majesty's Displeasure, but the Censure of the Public; as by that Public they may be considered under the Sentence as being Authors of an anonymous Letter, which neither Evidence on the Trial, or (if it had been attempted) Facts could have supported.

That your Petitioners, in Justice to themselves, and with an anxious Wish to clear their Characters from an Imputation so undeserved, and to prove their Conduct in their respective Stations, not to have been derogatory from that Regularity and Propriety consistent with, and necessary to good Order and military Discipline, as Officers serving under your Majesty, beg Leave humbly to represent to your Majesty the following Observations upon the Trial.

1st, For that your Petitioners submit the Charge itself was not supported in Substance or Fact, as they apprehend their Conduct at the several Meetings, and the Evidence (even of the Prosecutors) will testify. For the first Part of the Charge, (namely) "their Intention to avow," is not proved by any Witness; and although the second Part of the Charge is better supported, yet they presume it is not substantially so, in regard, that your Petitioners were not Volunteers in their Declaration, but were unfairly, and with a premeditated Design, brought to repeat an Opinion, which as Gentlemen they had once given, and as Gentlemen and Officers they could not refuse.

2^{dly}, That it has not even been attempted to be proved by the Prosecutors, that your Petitioners ever propagated or disclosed their Opinion to any Person whomsoever, (except in the two Cases alluded to on the Trial) which must shew your Petitioners were not actuated by Malevolence to publish the Characters of the Field Officers.

3^{dly}, That so far from the Proceedings of the Court-Martial having come to the Judge Advocate's Office in a correct State, the Evidence given by Ensign Lemoine upon the Trial, has been totally omitted, and several Parts of the Evidence of others left out; and that several other Parts of the Proceedings of the Court were refused to be taken down and entered as Part thereof, and also two material Letters given in Evidence, and received as such by the Court, although the same were requested by your Petitioners, in order that the Proceedings might come in exact and genuine Form to the Judge Advocate General for his Revision, that if any Mistake or Misconstruction should appear, it might be properly represented to your Majesty.

4^{thly}, That by the Copy of the Proceedings of the Court-Martial, it appears, that after the Business of the Court was finished, and immediately before the Sentence, is entered a Memorandum or Note to the following Effect:

"N. B. The Prisoners desired to be put upon their Trials together, and to be looked upon as one in this Business."

The Introduction of which Note or Memorandum, contrary to the Knowledge and Consent of your Petitioners, must certainly impress an Idea the most unfavourable against your Petitioners, that they were in a strict Combination throughout the whole Business, which your Petitioners most humbly beg Leave to assure your Majesty was not the Case, they
having

having met at the Agents by Accident, and never having had any Conversation on the Subject of the anonymous Letter previous thereto; and your Petitioners further submit, that it must appear, that no such Request could be made by them on a Reference to their several Defences, which they made correspondent and applicable to each particular Case, (as in some Instances they varied materially which they could not have been supposed to do, had they considered themselves as one in the Event of the Business, and therefore the Note must have originated in Error and Misunderstanding, as no such Application was made, nor did your Petitioners conceive, or (throughout the whole Proceedings) shew any Reason to give Room for such a Conjecture.

5thly, That when the Nature of the Charge, and the Severity of the Sentence are contrasted, they flatter themselves, without making any Observations on the Evidence (although they should particularly wish to have that examined) that what they have said or done, even as there stated, could not with Reason bring upon them so very harsh and severe a Censure.

6thly, That by the Sentence of the Court they are found Guilty of the Charge, and the Court in Virtue and Pursuance of the 23d Article of the 25th Section of the Articles of War, did adjudge that they should be cashiered; Whereas, there being no such Article or Section of the Articles of War, under which the Court have thought proper to bring their Case, and to pass Sentence upon it, they apprehend and most humbly submit, that, as in all Cases in your Majesty's Courts of Law, which affect a Man's Life, Liberty, Reputation, or Property, the utmost Precision is necessary to bring to Conviction; so in their particular Case, they humbly submit, that having been convicted and cashiered under an Article of War which does not exist, and that under the Act of Parliament for punishing Mutiny and Desertion in the Army, the Bounds are fixed and limited to the Articles of War, under which either Officer or Private can be cashiered or punished; Therefore, and in regard, no such Article of War as the one mentioned in the Sentence exists, they apprehend the whole Proceedings to be void, and that every Proceeding had thereunder ought to be annulled.

WHEREFORE your Majesty's most dutiful and loyal Subjects and Petitioners, Thomas Bridge Littell, and Thomas Baxter Aveling, humbly pray your Majesty, that your Majesty will be graciously pleased to take their Petition into your Royal Consideration; and that your Majesty will give such Directions, as, in your Majesty's great Wisdom and Goodness, shall be thought expedient, in order that they may have an Opportunity of proving their Conduct in the Regiment not to have been contrary to the Characters of Officers and Gentlemen, and that thereby they may be restored to your Royal Favour and Protection, and suffer no longer under the dishonourable Imputation thrown on their Characters by the Sentence of the Court-Martial, of being Guilty of having aspersed the Characters of Lieutenant-Colonel Thomas Watson Ward, and Major William Stevenson, their superior Officers, contrary to good Order and military Discipline, as alledged in the Charge, and that such Sentence may be reversed, and that your Petitioners may have such further and other Relief in the Premises, as to your Majesty shall seem meet,

And your Petitioners, as in Duty bound, shall ever pray.

THOMAS BRIDGE LITTELL,
THOMAS BAXTER AVELING.

L E T T E R S, &c.

Honourable Sir,

HAVING received a dismissal from his Majesty's service, (as Captains in the Cambridgeshire Militia) in consequence of the sentence of a General Court-Martial held upon us at Warley Camp:

Considering such Sentence beyond example severe, and upon obtaining a Copy of the proceedings of the said Court-Martial, from the Judge Advocate's Office, we find a great many irregularities, sufficient we presume (however novel the case) for us to lay a representation (by a Petition) to his Majesty, and praying for redress.

We therefore take the liberty of inclosing to you a Petition to the King, containing a plain and faithful recital of the circumstances by which we consider ourselves sufferers; and as we are informed your office is the proper channel through which such Petition should be conveyed, we humbly request you will be pleased to lay it before his Majesty.

If you will please to honor us with an audience, to explain more fully the particulars of this business, we shall be happy to receive your commands at Holyland's Coffee-house in the Strand, or No. 132, Pall-Mall.

We have the honor to be Sir,

Your most obedient

and most humble Servants,

Dec. 13, 1781.

*The Right Hon. Charles Jenkinson, Esq;
Secretary at War.*

T. B. LITTELL.
T. B. AVELING.

S I R,

Horse-Guards 19th December, 1781.

THE Secretary at War, into whose hands you have put a Petition, to be by him presented to his Majesty, relative to the sentence and proceedings of a General Court-Martial, held in the course of last summer at Warley Camp, for your respective trials, has been pleased to communicate the same to me, as having had the honor of laying those proceedings before the King, and of receiving his Majesty's commands thereon; and has requested, that I would suggest to him any observations which may occur to me upon the subject.

From the perusal of the petition, I am led to explain to you a circumstance to which you seem not to have adverted, namely,—That your removal from the regiment of Cambridgeshire Militia, does not rest upon the adjudication of the Court-Martial, but upon his Majesty's pleasure, signified to the Lord Lieutenant of the county, for displacing you,—which mode of dismissal was purposely adopted. His Majesty, although he approved the *opinion* of the Court in finding you severally guilty of having aspersed the characters of Lieutenant-Colonel Ward and Major Stevenson, your superior Officers, as alledged in the charge, not thinking it necessary to express a confirmation of the sentence of cashiering, as grounded upon the 23d article of the 15th section of the Articles of War, which article the Court appears evidently to have had in view (though by a literal error it is written the 23d article of the 25th section,) whereby your conduct would in effect, have been pronounced to be scandalous and infamous; but at the same time, judging it by no means proper or expedient for his Majesty's service, that you should be continued as Captains in that corps.

I think myself also warranted to assure you, that the minute which appears in the proceedings immediately antecedent to the sentence, and to which your Petition refers, viz. "That you desired to be put upon your trials together, and to be looked upon as one in the business," did not operate in any respect to your disadvantage.

advantage; having been considered only as expressive of your consent to your having been put upon your trials at the same time, instead of being tried separately, and by no means as indicative of your having entered into any combination respecting the business in question.

With regard to the suggestions made in your Petition of the proceedings being transmitted in an incorrect state, and particularly of several parts of the proceedings, and of the evidence being omitted, it is impossible to offer any observation, or to form a judgment, until the Deputy Judge Advocate shall have been made acquainted therewith, and have given an answer to those suggestions.

I am, Gentlemen,

Thomas Bridge Littell, Esq;
and
Thomas Baxter Aveling, Esq;

Your most obedient
and most humble Servant,
CHARLES GOULD.

S I R,

Pall-Mall, Dec. 30, 1781.

MR. Littell and myself, had the honor to receive your observations upon our Petition delivered to the Right Honourable the Secretary at War, (with a requisition that he would be pleased to present it to his Majesty.)

Mr. Littell being under the necessity of leaving town this morning, has commissioned me to act in this affair, as circumstances shall require.

My papers relative to the business, being at some distance in the country, I shall not be able to receive them before Tuesday next; as soon after which, as I possibly can, I will fully answer the substance of your favor of last night: in the mean time, as it seems necessary to apply to Captain Hunt, the Deputy Judge Advocate, shall think myself much obliged if you will order such application to be made, as I have no doubt of the truth of every allegation set forth in the Petition to his Majesty.

I am, Sir,

Sir Charles Gould,
Judge Advocate General.

Your most obedient
and most humble Servant,
THOMAS B. AVELING.

S I R,

Horse-Guards, December 21, 1781.

I Was yesterday favoured with your Letter, and am to acquaint you, that I have wrote to Captain Hunt, addressing my Letter to him at Bury, as I understand, he is with the West Suffolk Regiment there, or in the neighbourhood.

I am, Sir,

Thomas B. Aveling, Esq;

Your most obedient
and most humble Servant,
CHARLES GOULD.

S I R,

Pall-Mall, Dec. 26, 1781.

I N answer to the observations on our Petition, with which you were pleased to honour Mr. Littell and myself on the 19th instant, I must beg leave to observe, that I always understood that the word *cashiered*, as pronounced in the sentence, meant a removal from his Majesty's service, as soon as approved (or confirmed) by him, which I apprehend was done by his Majesty in our case, as appears by the following extract from your letter to Lieut. Gen. Parker, (viz.) "His Majesty has been pleased to approve the opinion of the said Court-Martial, and to direct that those Officers be displaced, and superseded in their respective commissions as Captains in the Cambridgeshire Regiment of Militia."

When

When officers are so unfortunate as to have the sentence or opinion of a Court Martial against them, to be cashiered, and such sentence or opinion is by his Majesty *approved* (which I understand to mean ratified or *confirmed*) some mode is adopted to remove them from the service. In our Case, after his Majesty had approved the sentence or opinion of the Court against us, (for without his Majesty's approbation it is only an opinion) he was pleased to give his orders for our removal in the following manner.

Copy of a Letter to Capt. THOMAS BRIDGE LITTELL, and of which Capt. THOMAS BAXTER AVELING received a Counterpart:

S I R,

Wrest, Aug. 4, 1781.

" I T gives me great concern to acquaint you, that I have received the King's orders
" through the Lord Viscount Stormont, one of his Majesty's Principal Secreta-
" ries of State, to remove you from your command in the Regiment of Cambridge-
" shire militia, in consequence of the sentence of the Court-Martial, held at Warley,
" the 18th of July, and the subsequent days.

" I am, Sir,

" Your most obedient

Capt. Tho. Bridge Littell.

" humble Servant,

(Signed) " HARDWICKE."

There is no doubt but this was the proper form to signify to us our removal, after the sentence of a Court-Martial had adjudged us to be cashiered, and such sentence or opinion was approved by the King: as we received our commissions from the Lord Lieutenant after he had recommended, and the King approved us, according to the established form in those cases, therefore I cannot think our removal by the Lord Lieutenant any more than a mere matter of form; nor dare I suppose his Majesty would have given such orders, had the Court acquitted, or passed a slight censure upon us, instead of that severe one they did. From this I conclude, that we were removed in consequence of the sentence, or *adjudication*, of the Court-Martial, as mentioned in Lord Hardwicke's letter to us; as if not, no doubt but (as in a recent case) it would have been intimated that his Majesty could not approve or confirm the opinion or sentence for obvious reasons, and that we should then have received a reproof from the King, if his Majesty thought we merited it; and I trust from his well known justice it would have fallen much short in severity of what the Court thought proper to adjudge us. Whatever section or article of war the Court might have in view, is not for me to imagine, but that there is no such section, and consequently no such article of that section, of which "by virtue and "pursuance" it passed the sentence, is very clear.—If the Court had brought its sentence under the 23d article of the 15th section of the Articles of War, which you seem to think it had in view, and by that means as you have observed, "pro-
"nounced our conduct to have been *scandalous* and *infamous*," I am led to believe it would have done more in its official capacity than any other body, or individual will, when they peruse the whole Proceedings.

I will not pretend to enter into the thoughts of the Court so far as to suppose what reasons it might have for inserting the N. B. alluded to; but thus much I must observe, that its being entered at all, contrary to the knowledge and consent of the parties, is illegal; or if, as you suppose, "it was inserted only as expressive
"of our consent to be put upon our trial at the same time;" in that case, the most that can be said in favour of its introduction is, that it originated in error, as the consent to such mode was never given or asked; on the contrary, we begged to be heard in objection before any witnesses were examined, yet the Court thought proper to refuse to hear our objections; therefore I cannot be brought to change my opinion, as stated in the Petition to the King, that, had we made such a request as the N. B. sets forth, it would most certainly, to every impartial person, convey the idea the

Prosecutor laboured to impress upon the Court, of a combination between Mr. Littell and myself.

The grounds, upon which you could not make your observations till you heard from Capt. Hunt, are by no means the *only* reasons set forth in the Petition, as it is founded upon the *severity* of the sentence, as well as upon omissions, additions, and irregularities, and contends the charge is not supported. In civil law courts, where a subject receives a sentence more than adequate to his offence, he has in most cases an appeal to a higher court, and many times sentences are reversed, and the prisoner, that by the former court has been convicted, by a subsequent one has been acquitted; and I believe it never yet was known that an appeal to a superior power, ever made the sentence more severe: whereas by the distinction you have made, ("that our removal from the regiment of Cambridgeshire Militia does not rest upon the adjudication of the Court-Martial, but upon his Majesty's pleasure, signified to the Lord Lieutenant of the County for displacing us, which mode was purposely adopted") without any appeal, our sentence is much more severe; as for my own part, I should feel my self much less hurt under the censure of a *young Court Martial*, than I should be by being so particularly pointed out, as even by the King himself to be thought deserving of so distinguishing a mark of the Royal disapprobation.

In our particular situation we do not find that an appeal will lie in any other Court, we therefore have presumed to petition his Majesty, (and rely upon its being presented to him) as the only mode we have of redress, and of clearing our characters, so unjustly loaded with an odium.—When the whole is represented to his Majesty, in a clear and impartial manner, (which we *believe* and most *earnestly* request with all convenient speed may be done) we flatter ourselves that his Majesty will be graciously pleased to think we have been too severely censured, for giving an opinion, and repeating that opinion when particularly called upon so to do by the parties themselves; and that his Majesty will approve our conduct not to have been scandalous or infamous, or unbecoming the officer or the gentleman; and that he will grant us such relief as shall remove the odium that we now labour under, passed upon us by the sentence of that Court, which, had it followed the impartial ground so justly marked out for it, in your letter to the Deputy Judge Advocate, it could not have passed.—As we apprehend and submit that the charge against us was not supported, that we proved (and could have proved much more if the Court had not prevented us) what most would have thought sufficient grounds, for forming our opinions on the two Field Officers, and which your letter seemed to think all that was necessary to be done, not to have our characters branded with being scandalous and infamous, *though perhaps deserving a slight censure.*

In behalf of Mr. Littell and myself,

I am, Sir,

Your most obedient
and most humble Servant,

T. B. AVELING.

Sir Charles Gould,
Judge Advocate General,
Horse-Guards.

S I R,

Ealing, 23th December 1781.

YOUR favor of the 6th instant has been forwarded to me from London,—containing several observations upon my Letter to you and to Captain Littell, of the 18th. It was certainly open to you to make your own comments upon any suggestions conveyed in that Letter; and I have only to request, you will not infer, from my declining an argument, which it would ill become me to entertain, upon the subject matter of a Petition not yet presented to his Majesty; that my sentiments and reasoning coincide with your's. But as you take notice, that the allegations upon which it appeared necessary for me to write to Captain Hunt, are by no means the *only* reasons set forth in your Petition, it may not be impertinent to explain, that I had not an idea of entering into a general discussion of your Petition, or of intimating

intimating any opinion of mine upon the merits: I meant nothing more than to communicate such circumstances as had come within my knowledge, and to account to you for any seeming delay in the business, which the waiting for Captain Hunt's answer might occasion.

I am, Sir,

Your most obedient and
most humble Servant,

CHARLES GOULD,

Thomas B. Aveling, Esq;

S I R,

Pall-Mall, January 1, 1782.

BEING absent, I did not receive the favor of your's of the 28th of December, till yesterday. I am sorry your former Letter of the 19th of December to Mr. Littell and myself, appears to have been misunderstood by us.

Although it may not be proper to enter into an argument upon the subject, I have to request, as soon as you see or hear from Captain Hunt, you will be so kind as to let me know the further progress of the business.

Permit me to assure you how truly concerned I shall be if my pointing out any matter which appears to me to be misconceived, and in which I think Mr. Littell's and my own honor materially concerned, shall be construed as giving the least offence to you.

I am, Sir,

your most obedient

and most humble Servant,

T. B. AVELING.

Sir Charles Gould,
Horse-Guards.

S I R,

Horse-Guards 3d January, 1782.

I Am to acknowledge the receipt of your Letter of the 1st instant, and in answer beg leave to assure you, that I had not conceived even the most faint idea of an offence from the observations made by Mr. Littell and you in your joint Letter.

I have now received an answer from Captain Hunt, who has sent me, as transcribed from his notes, the evidence given upon your trial by *Ensign Lemoin*, which he was much surprised, and concerned to learn, had escaped him in making out the fair draught of the proceedings. I am persuaded, you will do him the justice to believe it was not intentionally omitted. Inclosed I send you a copy thereof.

Lord Euston, the President, (who had been made acquainted with my application to Captain Hunt,) has honored me with a Letter, in which his Lordship says,—“ If the evidence of *Ensign Lemoin* has been accidentally omitted in the “ copy transmitted by Captain Hunt, it was not omitted by the Court in their “ consideration of the evidence on either side.”

In regard to other omissions, which the Petition suggests, Captain Hunt expresses himself thus, “ As to any part of the evidence of others being omitted, I “ know of no such thing. The two Letters which must be alluded to, and were “ not admitted by the Court to be put into the proceedings of the Court-Martial, “ I now send the copies of.” These copies I have also caused to be transcribed for Mr. Littell's information and your's. You will allow me however to observe upon these Letters, that they do not appear to have been admissible evidence, unless by the express consent of the prosecutor.

With respect to the note inserted in the minutes, “ That the prisoners desired “ to be put upon their trial together, and to be looked upon as one in the business;” both his Lordship and Captain Hunt insist, that this observation or memorandum, is warranted by the fact.

I shall

I shall now return your Petition into the hands of the Secretary at War, acquainting him with such circumstances as shall appear to me necessary for his information.

I am, Sir,

Your most obedient
and most humble Servant,

Thomas B. Aveling, Esq;

CHARLES GOULD.

S I R,

Warley Camp, 21st July, 1781.

AS we omitted through the hurry we were in, to get through with your evidence before the Court should be adjourned on Wednesday last, to ask you a question, the answer to which may be of some consequence to us; I take the liberty of transmitting it to you on the opposite side, and to desire that you will insert your answer underneath, signed by yourself; and that you will return the whole of this paper.

I am, Sir,

Your obedient, very
humble Servant,

George Aust, Secretary of State's
Office, St. James's.

THOMAS B. LITTELL.

Q. Did Captain Aveling or myself know of the anonymous Letter or a Copy of it being in your possession, when we called upon you on the 15th of May last?

A. I informed Captains Littell and Aveling, when they called on me the 15th of May, that I could shew them a Copy of the anonymous Letter; but they had no previous notice from me that I had either the Copy or the Original in my possession; nor have I any reason to think they had the least intimation of it from any other person.

GEORGE AUST.

July 23, 1781.

You will please to mention where I may direct to you on Monday evening next, in case your presence should be necessary the next day.

If I should not be found at the Office, please to order your messenger to go on to my house in Paradise-Row, Chelsea, No. 6.

S I R,

St. James's, July 23, 1781.

NOT being at the Office Saturday night or yesterday, (Sunday) your Letter of the 21st, did not come to hand till this morning; and I take the earliest opportunity of answering the question you sent me, and I hope to your satisfaction. Your messenger might have taken an answer back, if he had come on to my house. If you should have any other questions to put to me, I shall be much obliged to you to be allowed to answer them in the same manner. At any rate, I doubt not but you will save me the inconvenience of another journey without an absolute necessity.

I am, Sir,

Your most obedient
humble Servant,

G. AUST.

GENTLEMEN,

War-Office, January 12, 1782.

WHEN I first received your Letter of the 13th of last month, enclosing your Petition to the King, I thought it right, before I presented the Petition to his Majesty, to communicate it to the Judge Advocate General, as it related to the proceedings and sentence of a General Court-Martial, which he had officially laid before the King, and on which he had received his royal commands.

Sir

Sir Charles Gould having returned to me your Petition, with copies of a correspondence which he has since had on the subject of it; and particularly of your Letter to him of the 26th ult. I have, according to your desire, taken an opportunity of laying the same before the King; when his Majesty was pleased to order, that I should deliver back the Petition to the Judge Advocate General, and signify to him, his royal pleasure, that he should fully consider the several matters alledged in the said Petition, and in your said Letter to him of the 26th ult. as well as what is stated in any Letter received by him from Lord Euston and Captain Hunt, on the same subject; and that he should then attend his Majesty with the proceedings of the Court Martial, and all the papers before-mentioned, and receive his Majesty's further commands thereupon.

Thomas Bridge Littell, Esq;
and
Thomas Baxter Aveling, Esq;
No. 132, Pall-Mall.

I am, Gentlemen,
Your most obedient
humble Servant,
C. JENKINSON.

S I R,

Pall-Mall, Jan. 12, 1782.

I HAVE this day the honour of a letter from the Secretary at War, informing me he had laid Mr. Littell's and my Petition before the King, and had received his Majesty's orders to return it to you, for you fully to consider the several matters alledged in the said Petition; and in my letter to you of the 26th ult. as also what is stated in any letters received by you from Lord Euston and Capt. Hunt on the subject.

As Lord Euston's and Capt. Hunt's letters are now to be considered official matter, I hope there will be no impropriety in requesting copies of them that Mr. Littell and myself may have every opportunity to justify our conduct relative to the Petition to the King.

I am, Sir,
Your most obedient
and most humble Servant,
THOMAS B. AVELING.

Sir Charles Gould.

S I R,

Ealing, 14 Jan. 1782.

YOUR letter of the 12th instant has been forwarded to me hither from the Horse-guards. I have not the letters of Lord Euston and Capt. Hunt with me here, but have already made you acquainted with the general import, so far as the same appeared to me material for your information, and exactly as I stated it to the Secretary at War. My letter to Capt. Hunt did not contain a copy of your Petition to the King, which appeared to me neither necessary nor proper at that time; but I selected those two points which I wished to be ascertained, and desired an answer from him, whether any and what evidence had been omitted, and upon what ground the note had been inserted in the minutes, of your desiring to be put upon your trials together. The letter, which Lord Euston honoured me with, arose not from any letter of mine to his Lordship, but from Capt. Hunt having very naturally communicated to him my enquiries. Capt. Hunt, I remember, mentions in his letter that some questions had been proposed by the parties, which, not having been thought by the Court to be proper questions, were never put, and for that reason do not appear upon the minutes, and he instances one or two. This being no more than what happens upon almost every trial, and as questions not put, and which consequently did not receive any answer, could not be considered as making a part of the evidence, that circumstance seemed to me imma-

immaterial. The letter was evidently not considered by the writer as a public one, at the same time I am persuaded he has not a wish that any part of it should be concealed.

Am I to understand that you complain of any other *evidence*, or parts of evidence, than that Mr. Lemoine's (with which you are now furnished) being omitted in the minutes or report of the proceedings, as transmitted by the Deputy Judge Advocate, under the President's signature, and of which you have a copy? If you have any such suggestion to make, you will be pleased to specify the circumstances, which you conceive to be omitted, that I may again write to the Deputy Judge Advocate, and receive his answer, so that the whole may be comprehended in one view

I have the honour to be, Sir,

Your most obedient

and most humble Servant,

CHARLES GOULD.

P. S. Not having a clerk at hand, you will accept my letter in this rough state, which I send to London by a messenger on purpose.

Thomas B. Aveling, Esq.

S I R,

Pall-Mall, January 17, 1782.

I Was duly favoured with your very obliging letter of the 14th instant. Mr. Littell being still in the country, I waited a letter from him, or should have answered your favor sooner. I am entirely satisfied about the further contents of Lord Euston's and Captain Hunt's letters to you, as you say the extracts you were so obliging to send me "are the general import of what is contained in them." I should certainly not have troubled you with a request for copies of those letters, had I not thought, as they are now to be considered official matter, it was necessary in case they should contain any thing that might require answering. I never supposed Lord Euston was wrote to upon this business, and now I am certain he was not, I cannot help confessing I thought it rather extraordinary his Lordship should take up a subject on which he had not been applied to by you: and being convinced of the complexion of the Court towards us, my apprehensions naturally were, that as his Lordship thought proper to declare so much to you without any application on your part, he might possibly have intimated other things relative to the business (as well as the N. B.) which would require an answer; for the sentiments, or rather the disposition of the Court, manifestly appear from the outset of the business throughout the whole proceedings; and independent of the particular observations hereafter made, one general observation will evince it, which is, that upon the perusal of the proceedings it will appear, that scarcely one question was put by the Court, but either tended to criminate the prisoners, or exculpate the Lieutenant Colonel (the prosecutor) and also the Major, although in general, Courts are considered in these cases to incline rather for, than against the accused. In respect of the consideration of Mr. Lemoine's evidence by the Court, as mentioned in Lord Euston's Letter to you, it is impossible for me to controvert. In answer to that part of Captain Hunt's letter wherein he says, ("as to any part of the evidence of others being left out, I know of no such thing,") I beg leave to state that there are the following omissions in the several evidences mentioned hereafter, which I now think it incumbent upon me to send you, as confirming that part of the petition to his Majesty, that "several parts of the evidence of others is left out," as well as to shew the inaccurate state in which you received the proceedings; and have no doubt but these omissions, as well as that of Mr. Lemoine's evidence, are founded upon truth, and that Captain Hunt will confirm them if applied to. In regard to his Lordship's and Captain Hunt's insisting "that the N. B. is warranted by the fact," such an allegation is a proof of their misconceiving the matter, and will evidently appear by the perusal of the proceedings, the several questions asked by us applicable to our own particular cases, our separate defences, and declaring now as we have done in the petition to his Majesty, in the most solemn manner,

P

that

that we never had such an idea. The reasons for their conjecture might possibly arise from a remark hereafter made, and which I am persuaded is the only thing that could give birth to such a thought. The omissions of evidence in the proceedings (exclusive of Mr. Lemoine's) are as follow:—On the first day of the trial, the two first questions put to Lord Hardwicke, with their answers, (viz.) Q. by Lieutenant Colonel Ward, Is the note produced that which your Lordship sent to Major Stevenson and me with the anonymous letter? A. Yes. Q. Is the anonymous letter now produced the original one? A. When I came down in the morning, it lay upon the table, and came by the penny-post on the 25th of April. I sent it to Lord Amherst for his opinion how to act, which was either to advertise it, or send it to the regiment, that the officers might meet and consider upon it; and the latter measure was taken. On Tuesday July 24, in Lieutenant Tetfall's evidence the following questions and their answers are omitted:—After the answer “He desired me to relieve the guard.” Q. Who relieved Captain Stevenson? A. Captain Littell. After the answer, “Why as they were standing in files he ordered them, &c.” Q. When was the first field day the Major took his post as Major? A. One day last week*. After this question was put, and the answer to it given, another question was asked the witness relative to the conduct of the Major that day: on this second question the court was cleared, and it was determined no *further questions* should be asked relative to the conduct of the Lieutenant Colonel or Major, subsequent to the 25th of April, the day Lord Hardwicke received the anonymous letter. On Thursday July 26, between the *first* and *second* questions asked Captain Lieutenant Hall, the following question and answer are left out:—Q. Have you never declared that Captain Stevenson's neckcloth was torn from his neck, and thrown into the fire by Ensign Tuting? A. No. The unexpected negative given to all these three questions by this evidence, obliged the prisoners to ask permission of the Court to call two witnesses to whom Mr. Hall had represented the above circumstances as matter of fact. Although the prisoners declared to the Court they were exceedingly sorry to be under the disagreeable necessity to call such evidences in vindication of their own honour, and to prove the grounds for their opinions were not founded in their own imagination, but on the declaration of gentlemen who were present at the two fracas: yet the court determined Mr. Hall should not be confronted; alledging as a reason, that he being called by us, it would not be proper. In answer to which observation, we beg leave to observe, that this officer as well as the others who were summoned by us, were passed over by the Lieutenant Colonel and Major in their summonses; and as we knew they were in possession of the facts, we thought it necessary to call them in our own justification; and this witness not giving the evidence we fully expected, we thought in duty to ourselves we must prove it by two respectable persons to whom he had made the declarations he here so positively denies. On Thursday July 26, in Mr. Simson's evidence after the following question, Mr. Simson desired he might give his answer to it his own way. Q. “Did he not tell you, if you would hold out three hours longer, Major Cotton would be gone, and you would have your liberty?” A. Yes. Mr. Simson then read a letter from Major Cotton to him, and gave the following answer to it, both of which were admitted as evidence by the Court; and as it was not objected to by the prosecutor, the prisoners desired they might be entered as evidence in the proceedings; but the Court, although it admitted it as evidence, would not suffer it to be taken down.—(Copy of a letter from Major Cotton to Lieutenant Simson, and is one of the letters alluded to in the petition) Sir, “I am sure we both wish well to the corps we serve in; therefore, to avoid the disgrace and ill consequences a Court Martial will bring on the regiment, I take the liberty of making you the following proposal; if you think that the heat of my temper hurried me into giving you any unjustifiable offence, I am ready to submit my conduct to

* Eight months after being appointed Major, and six weeks after being in camp.

" the opinion of four gentlemen, each of us to appoint two ; and whatever satisfaction they require I should give you, I will readily acquiesce in."

I am, Sir, your humble servant.

(Signed) John Cotton.

Tuesday, 11 Aug. Yarmouth.

To Lieutenant Simson, at the Bear.

Mr. Simson continues his evidence. " Soon after the receipt of the above letter, Lieut. Colonel Ward came to me and asked me, if I had not received a letter from the Major, I told him, yes ; well, says he, and what do you mean to do ? I told him, in some measure I should be guided by him, and asked him what he wished me to do ; he said, by all means keep it up, and not listen to any terms, and he will be gone in three or four hours, and you will have your liberty ; and then desired me not to take notice or mention that he (Colonel Ward) advised me to it."—Had the prisoners been permitted to have called the evidences they requested to confront Mr. Hall, they would have proved one or two more recent instances than the above, wherein Lieutenant Colonel Ward has declared he was glad of every disagreement and dissension that happened in his regiment. On Friday July 27, in Mr. Cotton's evidence in answer to the question, " When did you receive the route" (after the words) " and wished us a good march to Tiptree," there is left out the following passage; (viz.) " This was not satisfactory to me, and I sent an express to Lord Amherst, requesting to know if I was to join the party at Hampstead, &c. remain where I was, or proceed on my route to Tiptree."—In order to give further reasons (if it is necessary) to shew that the N. B. alluded to must have been inserted through misunderstanding, we beg leave to state, that as soon as the Court was formed the charge was read, and we were never asked concerning any mode of trial, or did we plead to the charge in any manner ; but immediately on its being read, begged to speak against the informality, if not the illegality of it, as we were put under arrest on no specific charge, but in general terms, " For aspersing characters and conduct !" The Court, however, stopped us short, would not hear any thing we had to say upon the subject, consequently the business proceeded ; and Lieutenant Colonel Ward (the Prosecutor) was sworn, the anonymous letter and Lord Hardwicke's note were read, and the Lieutenant Colonel gave evidence, although before he proceeded the Prisoners objected to his being examined and suffered to give evidence ; and mentioned an instance where, in a similar case, the Prosecutor had been refused giving evidence ; but this Court would not admit the objection or precedent, and the Prosecutor in consequence proceeded to give his evidence. During the cross examination of Lord Hardwicke, the Court asked the Prisoners whether the questions put by one of them, and the answers thereto, should be taken down as meant jointly ? To which the Prisoners replied, by requesting they might be taken down *separately* ; but that as there would be many questions the answers to which would be equally applicable to both, they said, such questions, with their answers, must be received and considered by the Court in that light ; or the Prisoners would be under the necessity of having them taken down twice, and consequently giving the Court double trouble : this was consented to by the Court, and the Prisoners thought and acted throughout the whole business agreeable to such determination, as will appear upon a perusal of the proceedings. This was the only question asked relative to the process of the trial, and being the only conversation that passed on that head, it must certainly be the only possible reason the Court could have for any grounds for the introduction of the N. B. alluded to in the Petition ; and which, if the Court had considered as expressive of the Prisoners consents to be tried together, and considered as one in the business, should certainly have been inserted in this place, and not three days after the examination of all witnesses, and all business relative to the trial (the sentence only excepted) had closed.—I must take the liberty further to observe, that the supposing such a request as the N. B. contains, could be made by the Prisoners, would be the greatest reflection imaginable on their want of understanding ; and if it had been asked, the greatest insult that could possibly

possibly be offered any sett of men, sitting as Judges and Jurors in a Court—because it certainly must be contrary to common reason to suppose, that a Court sitting to hear, determine, and pass sentence, agreeable to evidence that should come before them, could be biased by any partial application made by the Prisoners; that if it acquitted or condemned one, it would acquit or condemn both, however different their degrees of guilt might appear, however contrary to all equity and justice, and however contrary to the oath taken by them at the forming of the Court.

In behalf of Mr. Littell and myself,

I have the honour to be,

Sir,

Your most obedient,

and most humble Servant,

T. B. AVELING.

Sir Charles Gould,

S I R,

Horse-Guards 17th January, 1782.

DESIROUS that you should be possessed of every information, which it is in my power to furnish, I now send you, in compliance with your request, a copy at large of Captain Hunt's Letter; and I think it right to add, that I enquired, for my own satisfaction, of Lord Euston and Captain Hunt severally, (and without any intimation, that might lead them in their answer) *which* of the articles of war the Court-Martial had under contemplation, when they gave judgment upon your trial;—and they have each of them in reply named the 23d article of the *fifteenth* section.

I am, Sir,

Your most obedient

and most humble Servant,

CHARLES GOULD.

Thomas B. Aveling, Esq;

Letter from Captain HUNT, Deputy Judge Advocate, 26th December 1781.

S I R,

Bury, December 26, 1781.

ON Tuesday I dined with the Duke of Grafton, and I gave your Letter and the Extracts to Lord Euston, who has perfectly in his memory the prisoners desire to be put upon their trial together, and to be looked upon as one in this business.

Inclosed I send you Mr. Lemoine's evidence, lest so great a want of accuracy, as the omission of it, should be in the proceedings sent by me to your Office; if a copy of the proceedings has been required by Captains Littell and Aveling, possibly the error may be there. I should not forgive myself if it should lay at my door.

As to any part of the evidence of others being omitted, I know of no such thing. The two Letters which must be alluded to and were not admitted by the Court to be put into the proceedings of the Court-Martial, I now send you the copies of.

Questions were sometimes put by the prisoner and taken down by me, but when the tendency of them made them appear to the Court not proper to be put, such remain crossed out in my minutes. As the following one to John Cotton, Esq; by Captain Littell.

Q. From the post you held in the regiment, and from the observations you have made on the Officers in it, was Captain Stevenson or was he not, according to your judgment, capable of duly executing the duties of the post he then held in the regiment.

In Lieutenant Jennings's second evidence a question put by Captain Littell, is crossed in my minutes, because not thought by the Court proper to be asked.

Q. Have not you been reflected upon that you had suffered two Officers in your presence to abuse each other in that way.

On

On the last day when the Court met to revise and pass sentence, it was judged right to make such an observation or memorandum, or else his Majesty might not see what all the members of the Court-Martial knew, that the prisoners desired to be put upon their trials together, and to be looked upon as one in the business.

The circumstance is well remembered by many, and Lord Euston's frequently asking, is that a question from one of you or both? The Letter to Mr. Aust, though from one, relates to both, the Petition relates to both. A great deal can be said to prove their both standing in the same light.

I have the honor to with great respect,

Sir, &c.

Sir Charles Gould.

J. HUNT.

S I R,

Pall Mall, Jan. 18, 1782.

BEFORE I received the favour of your's yesterday, enclosing Capt. Hunt's letter, I had wrote to you, and hope I have as fully controverted every assertion made by Lord Euston and him, contained in *that* letter, as can possibly be required. Your application to Lord Euston and Capt. Hunt, to know which of the Articles of War the Court had in contemplation when it gave judgement upon our trial, produced a very natural answer, as they must know in the proceedings sent to you, the sentence was grounded upon an article of war that does *not* exist; (for it was notorious in the camp the day after the approval of the sentence arrived there, and there cannot be a doubt but *they* as well as other persons who were unconcerned must hear of it) and they were therefore under the necessity of referring to an article and section that *does* exist, and one *they supposed* the most applicable to the sentence the Court thought proper to pass. I am persuaded the representation you will make to his Majesty upon the Petition from the Proceedings of the Court-Martial, transmitted to your office by the Deputy Judge Advocate, under the President's signature, will not be biased by any *after* consideration or declaration, made by Lord Euston or Capt. Hunt, unless where matters are offered in opposition or confirmation of the allegations set forth in the Petition, the truth of which I have not the least doubt but a perusal of the proceedings and the corroborating circumstances mentioned in my letters will fully substantiate.

It may not be improper to remark, that the omission of the answer to Lord Hardwicke's second question, mentioned in mine to you yesterday, was a matter that prevented your representing to the King that the anonymous letter was sent to the regiment by Lord Amherst's advice, which advice had been given before our request was made for a copy of it being sent. My letter yesterday does not refer to any of the evidences Capt. Hunt says remain crossed in his minutes, as I have not taken them down as evidence at all, and am very confident, from my great attention to the business, all the questions I have mentioned were put, and the answers given to them, and I have no doubt but the allegations set forth in the Petition (namely;) That the prisoners proved substantial grounds for their opinions—That they were prevented by the Court from calling more witnesses to prove further grounds—That evidences who had proved by letters and otherways, further grounds for their opinions were not taken down.—That the sentence is severe.—That the charge is not supported—That it has not been proved the Prisoners did any thing more than give an opinion when (by a premeditated plan it was evidently meant to entrap them) they were asked—That the proceedings did not come in a correct state to your office—That the N. B. is inserted contrary to the knowledge and consent of the Prisoners, and that they were sentenced to be cashiered under a section and article of war that does not exist) are incontrovertible.

I have the honor to be, Sir,

Your most obedient

and most humble Servant,

T. B. AVELING.

I am

Sir Charles Gould.

Q

S I R,

Horse-Guards, 18 Jan. 1782.

I AM to acknowledge the receipt of your letter of yesterday's date, the contents whereof make it necessary for me to write again to Capt. Hunt, (the Deputy Judge Advocate) for further explanation, in respect to those other portions of evidence, which you alledge to have been received by the Court but omitted in the minutes. But I do not propose to state to Capt. Hunt the several remarks made in your said letter upon various parts of the proceedings of the Court-Martial, as I would by no means wish to draw on a controversy (in my opinion very improper) between the parties who have been tried, and those whose duty called upon them to sit as judges, or to assist at the trial.

I am, Sir,

Your most obedient

and most humble Servant,

Thomas B. Aveling, Esq;

CHARLES GOULD.

S I R,

Horse-Guards 19th January, 1782.

I WROTE yesterday to Capt. Hunt, upon the subject of the other omissions stated in your letter: and at my return home last night found another letter from you upon my table, which, as it consists chiefly of general remarks, with a recapitulation of those before suggested, does not seem to call for a particular answer.

I informed you before, from what motive I had enquired of Lord Euston and Capt. Hunt the article of war which the Court-Martial had in contemplation at the time of their giving judgment, and I trusted it was unnecessary for me to assign the motive which led me to communicate to you the answer, as well as the substance of my former correspondence with them upon this business.

I am, Sir,

Your most obedient

and most humble Servant,

Thomas B. Aveling, Esq;

CHARLES GOULD.

S I R,

Horse-Guards, 4th February, 1782.

I Received by Saturday's post a Letter from Captain Hunt in answer to my inquiries, an extract whereof I send enclosed for your information: and shall now take the first proper opportunity of laying the whole matter before the King.

I am, Sir,

Your most obedient

and most humble Servant,

Thomas B. Aveling, Esq;

CHARLES GOULD.

Extract of a Letter from Captain HUNT, dated Bury, February 1st, 1782.

S I R,

YOUR favour of the 28th of January, I beg leave to acknowledge. After Lieut. Tetfall's answer—"he desired me to relieve the command," are two questions from the Court.

Q. Who relieved Capt. Stevenson? A. Capt. Littell.

Q. Did Capt. Littell relieve Capt. Stevenson? A. He did.

Those

Those questions were crossed out by order of the Court who put them, as they tended to nothing.

Capt. Littell's Q. When was the first field day the Major took the rank in the field as Major? A. One day last week.

Question and answer appear in my copy crossed in Court, as thought unnecessary questions. The determination of the Court speaks for itself, as no further questions being allowed to be asked relative to Lieut. Col. or Major's conduct subsequent to the 25th of April.

The following is the whole of Capt. Hall's * evidence, as appears by my minutes.

Capt. Av. Q. Have you declared in the regiment, or out of the regiment, that Capt. Stevenson was knocked down by Ensign Tuting? A. Never.

Q. Have you ever declared that Capt. Stevenson's neckcloth was torn from his neck, and thrown into the fire after he got up again? A. Never.

Q. Have you never declared that Capt. Stevenson and Ensign Tuting lived together in such a scandalous familiarity, that it was a shame for a gentleman to keep them company? A. Never.

Q. At the fracas at St. Alban's, was there any money given on either side, between Capt. Stevenson and Ensign Tuting, and for what purpose? A. There was not.

Q. Was not Capt. Stevenson's fall occasioned by a blow? A. It was not.

Q. from the Court. Did you ever hear Capt. Aveling and Littell avow similar charges to be true, before Capt. Stevenson was made Major, with those mentioned in the anonymous letter? A. I did not.

Capt. Litt. Q. Did you ever at any time hear me speak of those charges? A. Never.

Q. Have not you published the fracas at St. Alban's as being highly disgraceful to Capt. Stevenson? A. I have not.

Major Stev. Q. Do you recollect when we halted at Buntingford, on the 2d of October, when I was Captain, what Capt. Aveling said when we went to Mr. York's park, at Hammel's? A. That as Major Cotton was leaving the regiment, there was an end of all Courts Martial, and disagreements.

Mem. Capt. Aveling to call in people to disprove Capt. Hall's evidence, but as he was evidence for the prisoners, the Court would not allow it.

In respect to Mr. Simpson's evidence, I entirely acted according to the directions of the Court. In my minutes appears a memorandum, that the Court cleared to determine about his being admitted an evidence, because broke by a General Court Martial.

I have the honour to be, &c.

Sir Charles Gould.

JOHN HUNT.

S I R,

Pall Mall, Feb. 5, 1782.

WE have to acknowledge the receipt of your favour of yesterday (directed to Pall Mall) inclosing an extract of a letter from Captain Hunt, and are very glad to find he *admits* there are questions (therein mentioned) which were put, and the answers to them given, but that they were crossed in his copy by order of the Court, which order, we assure you, we never heard or knew of; neither did we apprehend, when a question was once put, and an answer to it given, it could be withdrawn but by the consent of all the parties concerned. In Captain Hall's evidence, he gives the *very* question and answer that were mentioned to be left out, with the variation only of a word or two. As Captain Hunt does not mention any thing respecting the two first questions asked Lord Hardwicke, and the answers to them, or the passage in Mr. Cotton's evidence, we conclude he admits them to be omitted, as represented in the Letter to you of the 17th ult. We do not at all urge that Captain Hunt did not act according to the directions of the Court, but that the Letter, and Mr. Simson's answer, were admitted as evidence (which he does not

* This witness, upon the vacancies, immediately applied for and got an appointment to a company. deny)

deny) and do not appear upon the minutes of the proceedings, although we consider them of some consequence in respect to our opinions of the Lieutenant Colonel, as they manifestly shew he endeavoured to support divisions in his Regiment. As to the Court being cleared, to consider whether Mr. Simson could be admitted an evidence, we never heard or thought of such a thing, but remember it was cleared to consult whether certain questions contained in a paper delivered into Court, relative to the Lieutenant Colonel's conduct, should be admitted; for we never considered the cashiering by a general Court Martial, or the sentence of any other Court (except for perjury) could disqualify any person from giving evidence in a Court of Justice; and we apprehend Mr. Simson was not cashiered, but suspended for two years, and desired to resign, as so long a suspension might be detrimental to the service. Your letters of the 18th and 19th ult. both came to hand after you had been wrote to on the 18th. Apprehending, when we heard from you again, we should have occasion to make some observations, we declined writing till this time, being unwilling to trouble you with unnecessary letters. In answer to your favour of the 18th of January, we have to acknowledge ourselves obliged to you for not intending "to state to Captain Hunt the several remarks made in the letter of the 17th of the same month, upon various parts of the proceedings of the Court Martial;" and to add, that although we do not wish any controversy on the subject, we think ourselves *bound* (let what will arise from it) to mention all the facts that occur to support the truth of our petition to the King, and to beg his Majesty may be acquainted with the partiality of the Court, as stated in any correspondence that has passed between us upon the subject; we also wish to express our most dutiful thanks to his Majesty for condescending to receive our petition, and to give his royal orders upon it.

In vindication of our own honour, we think it incumbent upon us to submit our conduct to the world, by a publication of the proceedings in this business, with remarks upon them, and we shall then certainly be open to any answer that may be given to them, not coming from an anonymous pen. Having heretofore omitted, we must beg leave now to remark upon one part of Captain Hunt's Letter of the 26th of December, relative to the insertion of the N. B. that what he there states, (namely) "And Lord Euston's frequently asking, is that a question from one of you or both?" is a most substantial proof that his Lordship, as well as ourselves, did not consider us *both* in the same light, for if he had, he could never have asked such a question, it clearly indicating his Lordship thought there was a difference.

We have the honor to be,

S I R,

Your most obedient,

and most humble servants,

T. B. LITTELL.

T. B. AVELING.

Sir Charles Gould.

GENTLEMEN,

Horse-Guards, 20th February, 1782.

IN obedience to the King's command, signified to me by his Majesty's Secretary at War, I have had the honour of laying before his Majesty, as distinctly as I could, the information and remarks contained in the several letters which have passed, relative to the subject of your Petition, together with the proceedings of the General Court Martial upon your trial, to which the same refers. His Majesty was pleased, with the most gracious condescension, to attend to every part of the representation, wishing to have discovered some evidence plainly exculpatory of your conduct,—and upon consideration of the whole matter, has commanded me to acquaint you, that his Majesty does not see cause for changing the sentiments, which determined his Majesty to signify his Royal pleasure to the Lord Lieutenant

Lieutenant of the county, for displacing you from the Cambridgeshire regiment of militia.

I am, Gentlemen,

Your most obedient,

and most humble servant,

CHARLES GOULD.

Thomas Bridge Littell, Esq;
and
Thomas Baxter Aveling, Esq;

S I R,

Horse-Guards, 20th February, 1782.

AFTER having discharged my duty in signifying to you the King's pleasure, with regard to your Petition, presented to his Majesty by the Secretary at War, you may perhaps expect, that I should take notice of some of the circumstances, to which your letters have more particularly called my attention.

I presumed, before your said Petition had been delivered to his Majesty, to explain to you, that although the King had approved the opinion of the Court, whereby you were found guilty of having aspersed the characters of your superior officers, his Majesty did not think it necessary to express a confirmation of the sentence of cashiering you, which seemed to be founded upon an Article of War, solely applicable to cases of scandalous and infamous behaviour;—but that his Majesty nevertheless had seen sufficient occasion to remove you from the Cambridgeshire regiment of Militia, judging your continuance therein to be incompatible with the harmony of the corps, and the necessary support of discipline.—A confirmation of the sentence of cashiering would as completely amove an officer, serving in a corps of embodied Militia, as an officer of the regular forces, and the dismissal in such case would be signified in the usual course by the Judge Advocate General; the notice also to the Lord Lieutenant of the county, instead of a letter from a Secretary of State, expressing his Majesty's pleasure that he should displace such officer, would be by a letter from the Judge Advocate General intimating the *vacancy*, in order to his appointing another officer in the place of the officer cashiered.

I am free to own, that the inaccuracy of writing the 23d Article of War, of the 25th Section, instead of the 23d Article of the 15th Section (for it was written in figures) was not stated to his Majesty: It had escaped me, as it did the writer. Had I perceived this literal error, I should not have hesitated,—I should even have thought it my duty,—to point it out to the Deputy Judge Advocate, in order that the Court might have had an opportunity of rectifying it, before any report of the proceedings had been made to his Majesty. But, even supposing your dismissal to have rested merely upon the adjudication of the Court, formally approved by the Crown, and that the assignment of the error should have been deemed sufficient in point of strict legality, to vitiate the sentence, I would refer it to your own judgment, whether it would follow that you must therefore be continued as officers in the regiment, however inexpedient it might be for his Majesty's Service, and whether his Majesty would have been thereby precluded from exercising the power vested in the Crown by the Militia Laws, of displacing officers, whenever it should be thought fit. Unless that conclusion could be made, I am at a loss to comprehend, upon what ground the mode of dismissal, which has been adopted, can be said to be *more severe*, than an express confirmation of the sentence.

I took leave also in the same early stage of the business to intimate, and can now give you the most positive assurance, that the note inserted in the proceedings,—of “your having desired to be put upon your trial together, and to be looked upon as one,” &c.—did not, when reported to his Majesty, make the unfavourable impression, which your Petition supposes; it was by no means considered, as intended by the Court to convey an opinion of your having confederated, and entered into a combination, but only as expressive of your willingness to be put, both of you, upon your trial at the same time. The circumstance of your having intimated any such desire, or of having even given any consent to that effect, is indeed denied

R

by,

by you, but is as positively affirmed by the President and Judge Advocate. This contrariety inclines me to believe, there may have been some little misapprehension; but upon a supposition that the Court is correct in their sense of the matter, I do not conceive that they have been irregular in noticing it, or that your particular assent or privity was necessary to warrant the minute.

Respectable as I hold the character of the young Nobleman to be, who presided at the Trial, neither that consideration, nor the good opinion I entertain of Capt. Hunt, who officiated as Judge Advocate, would have diverted me, if I had discovered any marks of a partial proceeding, from representing them in such manner as might have afforded you the full benefit thereof; but I have not been able to trace any such; and I cannot but observe, that you have yourselves borne ample testimony, each of you, in the opening of your respective defence, to the candid and impartial conduct of the Court, and have expressed your thanks for their extraordinary indulgence, in having adjourned at your joint request, for some days.

The total omission of the evidence of any witness produced on the part of a defendant, or whose testimony materially favoured his case, although it should have happened inadvertently, would certainly be a reasonable ground for requesting a reconsideration of the whole taken together; but in the present instance it has turned out, upon enquiry, that the testimony which has been omitted, is that of a witness produced on the part of the prosecution (I mean Mr. Lemoin) and corresponds in every material circumstance with the testimony of another witness (Ensign Tuting) which was fully stated. And with regard to the two letters, viz. your letter to Mr. Aust, and his answer,—which you represent to have been omitted,—these, as I believe I have before suggested, do not appear to have been admissible evidence;—however the import thereof, by his Majesty's indulgence, has now been submitted to his Royal consideration.

The lesser omissions made in the transcript of the proceedings, and now supplied, do not appear to have been in points of much moment towards the decision of the cause; and it may not be improper just to note, that it is not understood to be the duty of the Judge Advocate, nor does the reporting of the proceedings to the King suppose an entry of every question proposed, or a verbal recital of every thing said by a witness, whether deemed by the Court to be pertinent or not. If the true purport and substance of the evidence is clearly and impartially stated, the duty of his office is satisfied, and the parties have no foundation for complaint.

You have laid some stress upon the circumstance of the Court Martial not having acquiesced in a plea urged by you at the outset of the Trial, that the charge originally preferred against you was less specific, and in that respect different from the terms of the charge upon which you were arraigned. I will endeavour to explain this to you by a familiar instance. Daily practice shews, that offences are more fully and specially stated in the indictment, than in the warrant of commitment; and this specification, which is for the *benefit* of the prisoner, has never been held as a reason for the Court not proceeding upon the Trial according to the terms of the indictment. Had the accusation varied in *substance*, you would have had an opportunity of availing yourselves of any argument which that circumstance could have afforded in your defence.

You conceive the Court to have admitted another irregularity in receiving the Prosecutor's own testimony. I am clear this will be found to be perfectly agreeable to established usage, not in Courts Martial only, but in the ordinary Courts of Law. Criminal prosecutions are conducted in the name of the Crown, and the person who more immediately promotes or brings forward the charge, is in many instances, not only permitted, but required to prosecute and to give evidence. Peculiar circumstances may render the evidence of the Prosecutor undesirable and possibly suspicious; the degree of *credit* which his evidence may obtain, must in such case rest with those who try the cause; but, unless it can be shewn that he is actually interested, he is still a *competent* witness.

I will only offer one remark more in answer to the objection made by you to the Court's having refused to examine some witnesses tendered by you in the course of the

the trial. One instance, if I mistake not, is that wherein you were restrained from calling persons to discredit your own witness. The witness had denied the existence of a fact, which you expected him to prove, and you wished to produce other witnesses (not to establish that fact but) to shew that the witness whom you had called upon to prove it, had heretofore spoken of this matter differently; I must confess I cannot see that the Court have in this done any thing irregular or improper.—

Another instance is, that of restraining you in the examination of your witnesses, relative to the Lieutenant Colonel and Major's conduct: to the point of time when the anonymous letter was received by the Earl of Hardwicke, and of refusing to hear any thing on that subject subsequent to that date; a restriction which appears to me just and unexceptionable; for as the charge against you turned upon the contents of that paper, it is impossible that any subsequent conduct of the Lieut. Colonel or Major could have given rise to or justify the contents thereof, and therefore ought not to be taken into the question.

I think with you, that neither the sentence passed by a former Court Martial against Mr. Simson, a witness tendered by you to be examined, nor his removal from the Militia service, afforded an objection which could reach the competency of his evidence; and it is plain, the Court Martial upon your trial held the same opinion,—for they have actually received his testimony, and in a latitude which by no means indicates a wish of laying any improper restraint upon your examination. But the circumstance of Mr. Simson's quitting the service, appears not to have been rightly understood either by the Court Martial or by you. It is true, he was not sentenced to be cashiered, as the Court seems to have conceived, but only suspended for two years;—neither, on the other hand, did he resign, or was such resignation ever proposed to him;—the King not thinking it expedient that he should continue to be an officer in the Regiment, he was displaced in pursuance of his Majesty's command, signified to the Lord Lieutenant by the Secretary of State. As to the letter of a gentleman since deceased, which was produced by this witness, and which you alledge to have been read, I scarcely think it ought to have been received, as materially perhaps affecting the writer thereof, and exciting an unpleasant remembrance of a dispute long since past and consigned to oblivion, but very little, if at all, pertinent to the business depending; and I must presume the Court, upon hearing it read, felt the impropriety of receiving it as evidence, and therefore did not enter it upon their minutes. This, nevertheless, has now been supplied and considered as a part of the proceedings of the Court Martial.

I have already detained you but too long, which I trust you will ascribe to the true motive, that of wishing to convince you, I have not been wanting in the attention that was due to you. I have now only to add, that I am,

S I R S,

Thomas Bridge Littell, Esq;

and

Thomas Baxter Aveling, Esq;

Your most obedient

and most humble Servant,

CHARLES GOULD.

S I R,

Pall-Mall, Feb. 27, 1782.

WE had the honor to receive from you his Majesty's pleasure respecting our Petition, and also your observations upon the circumstances of the several letters that have passed between us and you upon that head, we have to assure you, that we are sorry our feelings as men of honor obliged us to declare the opinions we entertained upon the truths of the contents of an anonymous letter, that such opinions should cause a trial upon us; and that the indignity passed upon us by the sentence in consequence of such trial, should further dictate to us to use every means in our power to remove from us that odium which we think ourselves not deserving of; these motives have been the cause of the infinite trouble given you in this matter.

We

We have to acknowledge to you our particular thanks for the clear and candid manner in which you have in your last letter explained his Majesty's reasons for not confirming the sentence of the Court against us, as grounded upon an article of war solely applicable to scandalous and infamous behaviour, your former letter not being understood so fully to that point; that odious part of the sentence being by his Majesty considered (as we now understand) to imply in us a conduct which his Majesty does not think we had been guilty of; and in consequence, his Majesty has been most graciously pleased not to confirm the sentence: therefore we must now consider ourselves not cashiered by the Court, but removed by his Majesty's pleasure; his Majesty thinking our continuance in the corps (where there appeared so much disunion) might be injurious to the service, by preventing the harmony necessary to exist.

You will, no doubt recollect, when we had the honor of waiting upon you long before a Petition was framed, although we expressed our wishes to have the apparent odium wiped away by his Majesty's annulling the proceedings; we explained to you we did not desire to serve in a regiment with characters we had so publicly exposed, and of whose conduct we hold the most contemptuous opinion.

The mode of dismissal in our former letter was only mentioned to state to you, that we apprehended we were removed in consequence of the sentence or opinion of the Court, as if no Court had sat upon us, or had acquitted us; we certainly must have felt much more from a formal dismissal by his Majesty without any apparent reason assigned than we do now, considering all the circumstances. It is on this ground we dare not suppose his Majesty would have removed us had not the voice of the Court led his royal opinion to think it necessary, although he was graciously pleased to confirm a sentence so cruel and persecuting.

It would be presumptuous in us to pretend to dispute the power in the Crown to dismiss its own servants whenever it shall think proper, as it would be lessening its authority below that of all subjects, who certainly have that privilege.

Your assurance that the N. B. was only considered of our consent to be tried together, must be satisfactory, (as to its effect) particularly as you observe "our" "privity or consent were not necessary to warrant it,"—we always understood otherwise, and thought every entrance of matter that had never been heard of or erasure of that which had once been admitted, must be irregular, if all the parties were not consenting to such entry or erasure:—but when we are assured from such high authority, that we are mistaken, and that the Court has such an *unbounded* privilege, we lament the misfortune that other Gentlemen may experience (from a prejudiced Court,) who may hereafter be so unfortunate to stand at such a Bar.

The positive assertion of the President and Deputy Judge Advocate, in respect to the entrance of the N. B. unsupported by other corroborating circumstances, surely cannot be an equal balance to the *as* positive assertions of us, though considered as prisoners, when supported with so many circumstances, as well as the express declaration of one of the parties in his letter to you on the 26th of December last, which declaration of the President's questions to us, and the opinion of the Court in finding us *severally* guilty; which it could not have done had we been considered by it only *as one*, must certainly confirm our assertion, that such a request was never made by us, we trust that no correspondence we have held on this business will incline you to think we imagine that the dignity of any man, however superior in rank to those who have to offer opposition to his sentiments, or the good opinion entertained by you of Captain Hunt, your Deputy, could induce you to make any partial representation against two persons, who, individually considered, have as great a claim to your just decision, never having, we hope, (except in the trouble caused you in this affair) given you any reason to entertain an unfavourable opinion of us.

We are sorry we have not the honor to be of the same opinion with you in respect to the partiality of the Court, as we apprehend, had you been present, the grounds for our suggestions on that head would have appeared to you as they did to others in a more *striking* light; and we do not see that what is said by us at the opening our defences can bear any testimony to the contrary, except as to a
letter

matter or two at the outset of the business, the refusal of hearing our evidences and other matters complained of being subsequent to our making our defences; and upon examination of them, (we believe) will be found to thank the Court in *particular* for the indulgence of time allowed us for that purpose, that being an indulgence deserved thanks, particularly as we conceive it was the *only* one we received; but as you have observed, the Court adjourned at our joint request for some days, we beg to set you right in that matter, as the Court of itself, as is common in those cases, gave us one day, and therefore adjourned to the Saturday, we then solicited till Monday, which was an extraordinary indulgence of *one* day only, Sunday intervening.

The total omission of Mr. Lemoine's, or the partial omission of other evidences, we laid no stress upon (except Lord Hardwicke's) in any other respect than to shew the proceedings were not transmitted to your office in a correct state, and consequently his Majesty's approbation was not then given to the *whole proceedings*, he only having had a representation of a *part*. Notwithstanding what appears on the face of the Proceedings to be evidence given by Mr. Tuting, he gave no other evidence, or answered any other questions than the first general question by the Prosecutor, and the last particular one by Capt. Aveling, as Capt. Littell did not ask him a single question. We agree with you, that a report to the King may not suppose an entry of every question proposed, or any verbal recital not admitted as evidence; but when questions were put, and answers to them given and taken down, and also verbal recitals particularly desired to be, and consequently admitted as evidence by all parties; in those cases we apprehend they ought to appear, and their not being admitted so to do must be an error in the Deputy Judge Advocate, or a partiality in the Court, if it gives its orders for such erasures or non-entries, as it may be of the utmost disadvantage to the prisoners.

The impression we meant to fix on your mind, in the observation we made in our letter of the 17th of January, of the Court's refusing to hear an argument in opposition to the informality, if not the illegality of the charge, was, that such conduct in the Court shewed a manifest inclination to preclude us from that general advantage, which is in all cases given to prisoners, previous to their taking their trials, in criminal cases, and which ought more particularly to be allowed to persons circumstanced as we were, standing at the Bar of a Court of Honor; for, if we had been allowed to have stated our objections to the charge, as then produced, and contrasted it with the one originally given, and on which we had then been under arrest so long a time, we should not have had that reason to add, to the many in support of our Petition, and perhaps should have been able to have furnished arguments sufficient, to have satisfied the Court of the injustice of extending that charge, which in itself was originally weak and futile, into a matter of serious import; and if so, we might not have been considered in their determination so culpable as they have been pleased to declare us, at least we should have had the satisfaction of receiving their solemn determination on the point, which we then, and still think, so materially affected us. We do not consider the case of a criminal originally committed by the warrant of a magistrate, and whose offence is more fully and specially stated in the indictment, as mentioned by you, to be at all applicable to ours; for in that case, before such criminal can be put upon his trial, the investigation of a Grand Jury must determine the legality of the commitment, and of course the charge; which, if found illegal, he is discharged, if otherwise, he must be tried by a second Jury, and before a Judge in such case appointed, and has the liberty of opposing the grounds of the charge, and even the sentence (in many cases) which they adjudge; whereas, in cases of Prisoners before a Court Martial, the Court are Judges and Jurors, and if they refuse to hear such proofs or arguments as the Prisoner can produce in opposition to, or extenuation of the charge, he must patiently abide the event of his trial, and on conviction, has only an appeal to the royal clemency. We can only say in answer to your observation upon the legality, according to the established usage of admitting the Prosecutor's evidence, we did point out to the Court an instance, where, in a similar case, it was not admitted.

Justifiable as the Court seems to be in not permitting an evidence to be confronted, (because called on the part of the Prisoners) to prove the witnesses had made such declarations, we considered as a Court of Honor, whose proceedings differ in many instances from a Civil Law Court, it ought to have permitted us to have brought any evidence to prove good grounds for the opinions we had given, such opinions we declared being in some measure founded upon the declaration of that witness. The restraint of the examination into the Lieutenant Colonel and Major's conduct, subsequent to the 25th of April, was not considered by us as improper, but the erasing a question and answer given *before* such resolution was taken, and the Court refusing to let us prove in general terms (prior to the 25th of April) more instances of the Lieutenant Colonel's drunkenness when upon duty. But we apprehend, had the Court been inclined to have shewed us that candour which we were intitled to, it would as readily, and ought to have restrained the Prosecutor's asking a single question concerning words made use of by us after we were in arrest, and consequently ought not to have appeared as against us. But unfortunately we found the fullest scope given to the prosecutor, to prove *all* he could, whilst we (Prisoners) were restrained from bringing *more* witnesses to prove any thing further in favour of our opinions.—The observation we made upon Mr. Simson's evidence, does not even hint (we apprehend) that the Court refused to hear his testimony, but it was made in remark upon the misunderstanding of the Judge Advocate on what account the Court was cleared. We now understand the manner Mr. Simson quitted the service, having before been misled in that circumstance. We had not, at the time of the introducing the letter of a gentleman since dead, the least idea or wish to affect the writer; and we do assure you, that till Mr. Simson was examined, we did not know such a letter existed; but when we heard it read, and the evidence he gave in consequence, we then requested they might be taken down, not considering them injurious to the character of the writer (as we think the letter did him honor) but a manifest proof of the secret pleasure the Lieutenant Colonel had in encouraging dissensions in his Regiment, and the mean steps he took to accomplish it.

From every circumstance in this business, we are convinced you have not been inattentive to it; and we can only add, we shall be exceeding sorry if any of our remarks upon the proceedings of it, should be construed into offence by any particular person, it having been our duty to investigate the matter as far as we could, to expose what we considered glaring partialities, and now to appeal to every person of feeling, whether *we*, for giving our opinions, or the *persons* who gave grounds for *such* opinions, ought to have met with the disgrace thrown upon us?

When you favoured us with a copy of Captain Hunt's first letter, we hoped to have been favoured with a copy of Lord Euston's also; as the not receiving that copy impresses an idea upon us, that his Lordship has hinted at, or mentioned some circumstances that it would have been material for us to have seen and answered. We are the more led to this belief, by his Lordship's taking upon him to write to you on the subject, without any application from you, as well as from his Lordship's particular conduct upon the trial.—We have presumed to trouble you with the above observations, chiefly to explain to you some things apparently misconceived, and to wipe off any unfavourable impression the not answering your letter might occasion.

We have the honor to be, Sir,

Your most obedient

and most humble Servants,

T. B. LITTELL

T. B. AVELING

Sir Charles Gould.

GENTLEMEN,

Horse-Guards, March 4th, 1782.

HAVING already explained myself so fully, I should have contented myself with acknowledging your favor of the 27th of last month generally, had not two suggestions therein made, the one arising from a misconception of a part of my last letter to you, and the other respecting a letter written to me by the Earl of Euston, seemed to require a particular answer.

As to the first of these points,—If the copy which I have preserved of my said letter is correct, there is surely no expression in it, which asserts, or which can by the most extended construction be deemed to imply, that Courts Martial have the *unbounded* privilege, as you term it, of entering upon their minutes matter, that had never been heard of; and erasing at pleasure, that which had once been admitted. My observation relative to the entry or minute, of which you complained, amounted to this, and to this only, That the consent or privity of the Defendant is not requisite to warrant a Court Martial in minuting a *matter which actually passes* at the Trial, so as the same be truly and correctly stated. From this I do not mean to recede, conceiving it to be the duty (rather than the privilege) of the Judge Advocate and the Court, to minute, what in fact appears to them, not what either party may consent to or approve. But the assumption, that the Court may, without irregularity enter upon their minutes, *matter that has never been heard of*, I absolutely disclaim. As little did I mean to convey an opinion, that a Court Martial is at liberty to erase or omit any evidence, pertinent to the matter in issue, which had once been received: Possibly I may have hinted, that the omission of evidence produced on the part of the Prosecutor, or which respected points not very material, did not seem to me to afford you the same cause of complaint, as an omission of evidence upon points essential to your defence would have done.

The other remark, which calls upon me for an answer, regards a letter written to me by Lord Euston, wherein you suspect his Lordship to have mentioned or hinted some circumstances in your disfavour, to which it might have imported you to give an answer, and whereof you therefore lament my not having sent you a copy. I must confess, I did not look for such a suggestion from you, at the conclusion of the business; having in a former stage of it been told, that “you were entirely satisfied about the further contents of that letter, since I had informed you that the extracts sent you contained the general import.” And I had flattered myself, that I had credit with you for so much candour, as not to suppress, what it was material for you to know. You will allow me also to say, that the circumstances which you have adduced, as confirming you in a belief, that his Lordship had written something which might operate to your prejudice,—namely, his having taken upon him to write to me upon the subject, without any immediate application to his Lordship on my part,—does not make the same impression on my mind. It seems to me to have been very natural for Captain Hunt, the Judge Advocate, to communicate to the President any objections taken to the minutes, which had received the sanction of his signature,—and as natural for the President, informed of those objections, to explain himself to me concerning them. But to remove all doubts, I now send you a complete copy of the letter in question, which will speak for itself.

I will detain you no longer, than to subscribe myself,

S I R S,

Thomas Bridge Littell, Esq;

and

Thomas Baxter Aveling, Esq;

Your most obedient

and most humble Servant,

CHARLES GOULD.

T

S I R,

SIR,

Euston-Hall, December 25th, 1781.

I Have seen an extract of a Petition from Thomas Bridge Littell, and Thomas Baxter Aveling, Esqrs; late Captains in the Cambridgeshire regiment of Militia, delivered to the Secretary at War, in order to its being presented to his Majesty, as well as your letter upon the same subject to Captain Hunt, Deputy Judge Advocate upon the Court Martial at which I had the honor to preside: I have only to say, that if the evidence of Ensign Lemoine has been accidentally omitted in the copy which you received from Captain Hunt, it was not omitted by the Court in their consideration of the evidence on either side.

"The Prisoners desired to be put upon their trial together, and to be looked upon as one in the business."

Whether this was inserted by way of note or memorandum I do not remember, and I imagine it is not very material in what shape or form it was inserted, as long as it was taken down with accuracy.

I have the honor to be, Sir,

Your very obedient

humble servant,

E U S T O N,

Col. Suffolk Western Reg.

Sir Charles Gould.

SIR,

Pall-Mall, March 5th, 1782.

BEFORE I had the honor of receiving your favour yesterday, the whole proceedings had been printed off, and some of the copies delivered to particular persons. If you think the letter you favoured me with yesterday, is material in any point (and have a wish it, with Lord Euston's, should be published with the others) I will take the liberty to answer it in as particular a manner as I can, and order the whole to be struck off, and sent to those gentlemen who have already received copies.

I can only add, that both Mr. Littell (who is in the country) and myself, should be exceeding sorry if we have misconceived any matter, and offered sentiments thereon that can possibly be construed into any thing more than a difference in opinions.

I have the honor to be, Sir,

Your most obedient,

and most humble servant,

T. B. AVELING.

Sir Charles Gould,

SIR,

Horse-Guards, 5th March, 1782.

I Have this moment the favor of your letter of this day's date. I have not a wish, that any observation of mine should appear in print; and indeed, little expected, that the whole of this correspondence was to be submitted to the public; neither am I confident, did Lord Euston think, that any letter of his Lordship's to me, would find its way to the press. But I must confess, I should be very unwilling it should go forth as an opinion of mine (which I never for a moment entertained) that Courts Martial may at discretion insert or erase matter, or that an idea should exist, that such practice has obtained in the army.

That I did not sooner answer your last letter, has been owing to my being very fully engaged by other business.

I must desire you to excuse this hasty scrawl, and am, Sir,

Your most obedient,

and most humble servant,

CHARLES GOULD.

Thomas Baxter Aveling, Esq;

SIR,

SIR,

Pall-Mall, March 7th, 1782.

UPON the receipt of your favor of the 5th instant, I communicated the contents to some friends, whose opinions coincided with mine, that you did *not* wish your last letter, and the one from Lord Euston, to be published with the other part of the proceedings. Thus understanding the matter, is the reason I have not troubled you with an observation or two upon your letter of the 4th, and which mine of the 5th mentioned I intended to do.

Shewing your letter of the 5th to a friend last night, his opinion led him to believe (though "you did not wish any observations of your's should appear in print") as the other correspondence is submitted to the public, you *do* wish the last letters you favored me with likewise to appear.

This contrariety in opinions, lays me under the necessity of (and I hope will apologize for my) troubling you, to know if you would have those letters appear with the other; as nothing could so much distress me as to err (though inadvertently) in this matter, by suppressing any suggestions that you have offered in opposition to Mr. Littell's and my sentiments, for our wish is to submit the matter very impartially to the public.

I am, Sir,

Your most obedient,

and most humble servant,

T. B. AVELING.

Sir Charles Gould.

SIR,

Horse Guards, 7th March, 1782.

IN answer to the favor of your letter, this instant received, I have only to say, I do very much wish, that an opinion, which I disclaim, should not go out to the public, uncontradicted, and therefore desire, that my letter *may appear*, since your's which gave occasion to it is to be published. I should also wish it to be known, that there was nothing written by Lord Euston to me, which either his Lordship or I could desire to be suppressed; and I am persuaded, it is a matter of total indifference to Lord Euston, whether his letter be printed or not; but in point of delicacy I must say for myself, and I wish it to be understood, that I should not have furnished a copy of it with a view to publication.

I am, Sir,

Your most obedient,

and most humble servant,

CHARLES GOULD.

Thomas Baxter Aveling, Esq;

SIR,

Pall-Mall, March 8, 1782.

IN answer to the two observations you have favoured me with, upon Mr. Littell's and my letter to you of the 27th of February, I shall only observe, that the conclusion we made upon the privilege of a Court Martial, arose from your stating "you did not conceive our assent or privity necessary to warrant the minute,—that the reporting the proceedings does not suppose an entry, &c."—as it appears by Capt. Hunt's letter, that questions and answers had been admitted in evidence, taken down as such, and afterwards erased at the pleasure of the Court, without the knowledge or consent of the parties; and as we do not remember, your having any where taken notice that this step was improper, we concluded it met with your sanction.

We

We will for a moment suppose Capt. Hunt's communicating to Lord Euston your enquiries, and his Lordship's letters to you were natural, and that I said, "I was entirely satisfied, &c." which at the time I wrote that letter, was most assuredly the case, as I did not entertain a doubt of the truth of your letter, wherein you said, "I had been made acquainted with the general import of what was contained in Capt. Hunt's and Lord Euston's letters to you."

After all this, I will submit it to the judgment of any one, after an application to you for copies of Lord Euston's and Capt. Hunt's letters, and my receiving Capt. Hunt's only, whether it is any thing extraordinary, that Mr. Littell and myself should imagine, there was some reason for keeping back Lord Euston's? And if a suggestion arose, what other could more naturally occur, than that his Lordship in his letter had hinted at, or mentioned some circumstances that would have required an answer from us.

I am, Sir,
Your most obedient,
and most humble servant,
T. B. AVELING.

Sir Charles Gould.

SIR,

Horfe-Guards, 9th March, 1782.

I Did not think it possible, I should have had occasion to trouble you again, upon the matter which has so long been the subject of our correspondence; but I cannot help observing to you, in answer to your letter of yesterday's date, that a sentence partially quoted, or read, may seem to affirm the very reverse of what, taken altogether, it evidently imports. You recite, that I did not think your assent or privity necessary to warrant the minute, but you drop the introductory words "*upon a supposition that the Court is correct in their state of the matter.*"—I desire no other key or expositor to my meaning, than the restoring that initial part of the sentence, which must clearly controul the subsequent: for to state what did not happen, nor was ever heard of, I presume would not be to state correctly.

Whether I may have given the express epithets of improper, or irregular to the erasing or omitting of any questions and answers pertinent to the matter in issue, I cannot upon my memory say, as the case did not seem to demand any particular censure from me;—but confident I am, that the tendency of any argument, letter, or conversation of mine, has not at any time been such as to warrant any person saying, he was *assured upon my authority*, that such omission or erasure was not irregular.

I do not wish to enter into a discussion, how far your not entertaining a doubt of the truth of my letter, wherein I had said, "you had been made acquainted with the general import of what was contained in Lord Euston's letter to me," and your being entirely satisfied with that declaration, is compatible with a suspicion, that some parts of that letter had been suppressed, which it was of consequence for you to have been made acquainted with, and which would have required an answer on your part.—I content myself with the fact, of not having secreted any material circumstance, and shall therefore trespass no longer upon your time.

I am, Sir,
Your most obedient,
and most humble servant,
CHARLES GOULD.

Thomas Baxter Aveling, Esq;

